

WRITTEN DIRECTIVE



SUBJECT:	Sick Leave
ORDER TYPE:	Standard Operating Procedure
ISSUED DATE:	12/31/2021
EFFECTIVE DATE:	12/31/2021
DISTRIBUTION:	All Chiefs, Captains, Lieutenants, Budget & Procurement and Grants Management personnel
CALEA STANDARDS:	N/A

PURPOSE

The purpose of this directive is to establish a standardized procedure for the use of sick leave as well as to establish a process to verify that an employee is using sick leave for its intended purpose. Managing absences is a legitimate business necessity and a basic management obligation. In public safety, managing absences is especially important due to the nature of the work and the consistent need to provide public safety services.

POLICY

Sick leave cannot be used for purposes other than those permitted by law. Chronic use of sick leave may be symptomatic of an employee's non-fitness for duty. Management shall take preventive and corrective action when appropriate to protect the employee, other employees and the public good. All public laws, regulations and applicable negotiable provisions in collective bargaining agreements related to sick leave use shall be followed. Employees determined to have violated the sick leave policy, abuse sick leave and/or are determined to be chronic sick leave abusers shall be subject to appropriate discipline.

DEFINITIONS

Abuse of Sick Leave. patterns of excessive absenteeism or absences on certain days of the week disproportionate to other days, fraudulently claiming illness, on holidays, on days immediately prior to or after other benefit days off, the use of eight (8) sick days in a six (6) month period, the use of sick days in excess of seventeen (17) days, booking off sick without accumulated sick leave or other approved leave.

Administrative Assignment/ Leave. Employee who has their police enforcement authority temporarily suspended pending the resolution of an internal and/or personal matter and has been assigned to perform administrative tasks within the department or has been directed to remain at home.

Alternative Place of Recovery. place of recovery during illness or injury other than the employee's primary residence.

Chronic Sick Leave Use. sick leave use totaling at least five (5) occurrences and at least ten (10) sick leave days within a twelve (12) month period.

Excessive Absenteeism. chronic sick leave use, patterns of tardiness or not completing scheduled work days, booking off sick three (3) or more days out of any five consecutive weekends, five (5) or more days in two (2) consecutive pay periods or the use of holiday/vacation leave in excess of the employee's accumulated time.

Extended sick leave. An illness or injury requiring the use of more than thirty consecutive days.

Foreseeable Sick Leave Use. sick leave used when an employee knows in advance that he/she will not be available for regularly scheduled duties due to illness, a serious health condition or medical appointment for themselves or an immediate family member. Sufficient advance notice (5 days) of the need to use sick leave must be given so management can pre-plan for the employee's absence.

Illness. includes sickness, physical conditions or maladies rendering an employee unable to perform their essential duties.

Immediate Family. means an employee's spouse, domestic partner, child, legal ward, grandchild, foster child, father, mother, legal guardian, grandfather, grandmother, brother, sister, father-in-law, mother-in-law, and other relatives, residing in the employee's household.

Medical Officer. an employee designated by the Chief of Police, responsible for maintaining and reviewing the attendance of all department employees consistent with this directive.

Place of Recovery. the specific location an employee will remain during their scheduled shift when out sick or utilizing intermittent FMLA/NJFLA.

Primary Residence. the place where an employee normally abides, their home, their one true domicile.

Proof of Illness. The department may require proof of illness of any employee on sick leave. Abuse of sick leave shall be cause for disciplinary action.

Sick Leave Occurrence. failing to report as scheduled due to illness, injury or serious health condition necessitating the use of at least one (1) or more sick days within a "specified sick leave period" prior to returning to duty.

Six (6) Month Period. any consecutive 6 months.

Short term sick leave. An illness or injury requiring the use of thirty or less consecutive sick days.

Sensitive Items. All firearms, magazines, ammunition, Conducted Energy Devices (CED), portable radios, cell phones, collapsible baton, OC spray, take home car, office keys, fuel fob and other items determined by the department.

Twelve (12) Month Period. any consecutive 12 months.

Unforeseeable Sick Leave Use. sick leave used when an employee does not know in advance that he/she will not be available for regular scheduled duties due to illness, a serious health condition or medical appointment of themselves or an immediate family member.

PROCEDURES

1. GENERAL

- 1.1. Sick leave may be used by employees who are unable to work because of:
 - Personal illness, injury, or serious health condition.
 - Exposure to contagious disease.
 - Care for an immediate family member with a serious health condition or illness.
- 1.2. Chronic use of sick leave may be symptomatic of an employee's non-fitness for duty.
- 1.3. When an employee calls off sick, the employee is immediately prevented from engaging in any type of secondary employment or overtime work or participate in any athletic events, training or meetings while out sick. This restriction shall remain in effect until the employee physically returns to his/her regularly scheduled tour of duty and completes one full day of work. The only exceptions to this requirement shall be as follows: The authorization of overtime to employees of the department who are required to comply with any court issued subpoena, or the expressed approval of the Chief of Police.
- 1.4. Once an employee calls off sick, he/she is automatically restricted to their place of recovery during their scheduled shift. This includes being on sick leave to care for an immediate family member or intermittent FMLA/NJFLA.
 - 1.4.1. If there is any reason why the employee must leave their place of recovery, they shall first contact the RT-TOIC and advise as to where they are going and when they expect to return.
 - 1.4.2. Upon arriving back at their place of recovery, employees shall again contact the RT-TOIC and inform him/her that they have returned.

- 1.5. An employee who expects to be absent for more than 30 consecutive work days, or has been absent for 30 consecutive work days and does not know when he or she will be able to return to work will be required by the police department to turn in all department issued equipment (to include police ID, access card and badge) and sensitive department equipment to their immediate supervisor or the Watch Commander.
- 1.6. If the employee is unable to turn in the department issued equipment, he or she must make arrangements to have the equipment retrieved and turned into the Evidence Section.
- 1.7. If a supervisor or Commander receives medical documentation of any kind, they should immediately forward to CCPD Human Resources.
- 1.8. All extended medical leave requests must be reviewed by CCPD Human Resources section prior to being submitted for final approval.
- 1.9. Maternity leave.
 - 1.9.1. The department recognizes the need to provide conditions that consider the safety and welfare of the pregnant officer/employee, her child, other officers/employees and the community.
 - 1.9.2. Pregnant officers/employees shall follow the requirements set forth in this policy to be eligible to receive all benefits and compensation accordingly.
 - 1.9.3. Pregnant officer/employee are required to prepare necessary FMLA documents in advance of any pregnancy related leave or delivery date.
 - 1.9.4. Officers will provide 30-days advance notice of the need to take pregnancy leave when the need is foreseeable and such notice is practicable.
- 1.10. The Family and Medical Leave Act (FMLA)
 - 1.10.1. Under this Act, an officer/employee who has worked for the County a minimum of 1,250 hours over the previous twelve months preceding the start of any qualifying leave, is entitled to take up to (12) weeks of paid and/or unpaid leave in a twelve-month period for:
 - Birth and care of the newborn child of the officer;
 - Adoption or placement of a child in foster care;
 - Care of a child under the age of eighteen:

- Care of a parent who has a serious health condition.

1.10.2. A serious health condition that makes the officer/employee unable to perform the functions of the job.

- FMLA time will run concurrently with any type of paid leave afforded to the officer/employee.
- Paid FMLA time will include the use of any available earned time; i.e. vacation, personal, holiday and sick hours.
- The officer/employee must exhaust all of his/her available earned time before moving to a no-pay status.

1.10.3. Leave under FMLA may be taken intermittently or on a reduced work leave schedule up to 480 hours within 12 months from the date of FMLA approval. The officer/employee must obtain re-certification from the health care provider as requested by the Human Resources.

1.10.4. While on FMLA leave the officer/employee's health plan coverage shall remain at the same level and under the same conditions as when they he/she was on an active status.

1.10.5. Upon return to full duty, the officer/employee will be restored to the same or equivalent position he/she held prior to going on leave.

1.10.6. All provisions of the Family Medical Leave Act of 1993 (29 C.F.R) that the department is required to abide by will be enforced. This shall also include provision of the officer to provide documentation when requested.

1.11. Notification of Foreseeable Illness or Injury

1.11.1. An officer/employee needing to use paid sick leave for a foreseeable illness or injury shall give as much prior notice as possible to the starting date of the leave in writing to their commanding officer and to Human Resources.

1.11.2. When taking foreseeable intermittent FMLA leave, officers must make a reasonable effort to schedule the leave so as not to unduly disrupt the department's operations. Officers are to consult with the police department Human Resources unit and their commanding officer or supervisor before scheduling treatment so they can work out a schedule that best suits the needs of the police department and officer/employee. If the officer fails to consult with the Human Resources unit to make a reasonable attempt to arrange a treatment schedule that will avoid undue

disruption, Human Resources may initiate those discussions and require the officer/employee to attempt to make such arrangements, subject to the health care provider's approval.

1.12. Approved FMLA/NJFLA absences and/or absences with appropriate medical documentation shall not be considered when determining excessive absenteeism, abuse of sick leave or chronic sick leave use. However, if it is determined that the officer/employee fails to comply with all FMLA/NJFLA procedures or fraudulently obtains FMLA/NJFLA leave, such time will be considered when determining chronic designation and disciplinary action.

2. **CALL OUT PROCEDURES**

2.1. When an officer/employee calls off duty utilizing unforeseeable sick leave, they shall notify the RT-TOIC no less than two (2) hours prior to the start of their tour of duty.

2.2. It is recognized that there may be instances where the use of sick leave can be scheduled in advance. Reasons for scheduling the use of foreseeable sick leave in advance include, but are not limited to, medical testing, elective surgery, medical procedures, or physical therapy. When foreseeable sick leave is used this information shall be documented in a Sick Leave Request Form and submitted via the Chain of Command, five (5) business days prior to the date(s) requested. In cases of approved FMLA the Sick Leave Request Form shall be submitted to the Human Resources Unit.

2.3. When unforeseeable sick leave and/or unforeseeable intermittent FMLA leave is utilized, the officer/employee shall provide the RT-TOIC with the following information:

- Date and approximate duration of sick leave; and
- Current assignment (Platoon/Unit, regular scheduled shift or recall); and
- Whether or not they are utilizing approved FMLA leave time; and
- General nature of their illness; and
- Is the nature of their illness personal or for the care of an approved family member; and
- Are they able to work part of the day; and
- Will they see or call a physician; and
- Location of their place of recovery/treatment including address and telephone number.

2.4. The above information shall be noted on the employee *Call-Out-Log* by the RT- TOIC. The RT-TOIC shall notify the Internal Affairs Commander via email of all unforeseeable sick leave calls as they are received.

3. **VERIFICATION PROCEDURES**

3.1. The RT-TOIC, the officer/employee's supervisor, or any member designated by the Chief of Police may make phone contact with any officer/employee out sick, at any time during the officer/employee's scheduled shift.

3.2. Upon returning to work, officer/employees must complete and forward to the medical officer without delay a *Return to Duty Report*. In cases of FMLA, the *Return to Duty Report* shall be submitted directly to the Human Resources Unit.

3.3. It is the responsibility of the officer/employee call out of work on sick leave, to personally speak on the telephone or in person whenever contact is attempted. Not hearing the phone or door is NOT a plausible excuse for failing to respond during the first half of an officer/employee's scheduled tour of duty. In the event that personal or telephone contact could not be made, the employee out on sick leave is required to respond to the person who initiated the contact within one (1) hour.

3.4. Call forwarding is strictly prohibited and no employee is allowed to use a pager or answering machine to screen calls to circumvent these procedures.

3.5. The employee's supervisor or any member designated by the Chief of Police may perform in person verification.

3.6. The employee's supervisor or any member designated by the Chief of Police may require the employee to report to an approved designated medical facility for medical evaluation,

3.7. An officer/employee, who is advised that he/she has abused sick leave or has their sick leave designated as chronic, may be required to provide medical verification for all future subsequent illnesses.

3.8. The department may also request proof of illness of family member(s) when sick time is being utilized for this purpose.

4. MEDICAL DOCUMENTS AND EXAMINATION REQUIREMENTS

- 4.1. Officer/employees, who are identified and advised of chronic sick leave use or advised of sick leave abuse, will be required to submit acceptable medical evidence to the Human Resources Unit for any additional sick leave for a period of twelve (12) months.
- 4.2. An officer/employee, who has been absent for five (5) or more consecutive working days is required, upon returning to work, to present a note from a licensed physician indicating the nature of the officer/employee's medical condition and any limitations to the Human Resources Unit. Officer/employees may be required to undergo a physical examination or functional capacity examination before returning to their regular duties as determined by the Chief of Police.

5. SUPERVISOR /COMMANDING OFFICER RESPONSIBILITIES

- 5.1. Supervisors/Commanding Officer shall conduct an ongoing and thorough review of their subordinates' attendance records. Such review shall include identification of potential patterns of absenteeism, excessive absenteeism, sick leave abuse and chronic sick leave usage.
- 5.2. Whenever the Supervisors/Commanding Officer identifies a violation of the department's attendance procedures, sick leave abuse, or excessive absenteeism; he/she shall:
 - Prepare a report documenting all facts, findings and recommendations; and
 - Forward their report along with supporting documents to the Internal Affairs Commander.

6. MEDICAL OFFICER'S RESPONSIBILITIES

- 6.1. The Medical Officer shall, when required by the Chief of Police serve as a point of contact for employees infected with transmissible disease. Additionally, the Medical Officer may be assigned as the Chief's designee/liaison to the State/County Department of Health.
- 6.2. The Medical Officer shall conduct an ongoing and thorough review of each employee's attendance record. Such review shall include identification of potential patterns of absenteeism, excessive absenteeism, sick leave abuse and chronic sick leave usage.

6.3. Whenever the medical officer identifies or receives information of any violation of the department's attendance procedures, sick leave abuse, or excessive absenteeism; he/ she shall:

- Prepare a report documenting all facts, findings and recommendations; and
- Forward their report along with supporting documents to the Internal Affairs Commander.

OTHER PROVISIONS

All personnel are responsible for adhering to the requirements of this written directive until rescinded or amended by written order of the Chief of Police. Employees have an ongoing and continuous responsibility to seek guidance and verify their understanding of this and all directives including orders, policies, procedures, and rules. This directive shall take effect 12/31/2021 and remain in force and effect unless and until it is repealed, amended, or superseded by Order of the Chief of Police. All directives not expressly altered by this order remain in full force and effect.

The provisions of this directive shall be severable. If any phrase, clause, sentence or provision of this directive is declared by a court of competent jurisdiction to be invalid, the remainder of the directive shall not be affected.

Non-enforceability by third parties. This Directive is issued pursuant to the Chief of Police's authority to ensure the uniform and efficient enforcement of the laws and administration of criminal justice by department members. This Directive imposes limitations that may be more restrictive than the limitations imposed under the United States and New Jersey Constitutions, and federal and state statutes and regulations. Nothing in this Directive shall be construed in any way to create any substantive right that may be enforced by any third party.

By Order of

X /Gabriel Rodriguez/

Gabriel Rodriguez #12
Chief of Police