

<b>DOUGLAS COUNTY SHERIFF'S OFFICE</b>		<b>Policy and Procedure</b>
<b>Employee Leave and Compensation</b>		<b>P&amp;P-L-110</b>
<b>Modified Duty</b>		
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References: P&P-L-100	Reevaluation Date: Annually	Standards:

## I. POLICY

It is the policy of the Douglas County Sheriff's Office to make available a limited number of full-time modified duty assignments, provided such modified duty assignments are necessary in relation to the operational needs of the DCSO and provided that all eligibility requirements are met. These modified duty opportunities will be for the exclusive assignment of DCSO employees who remain in good standing with the Office and who are suffering from a medical condition, such that they are temporarily unable to perform all the essential duties of their current position. It is the employee's responsibility to request modified duty.

## II. PROCEDURE

When an employee is unable to complete the essential job functions of their current assigned job due to a temporary medical condition (regardless of whether it occurred on-duty or off-duty), they must request to work a modified duty assignment provided the following eligibility criteria are met:

- A. In the event of a non-work related, temporary medical condition, the employee will be eligible to apply for a modified duty assignment on the first day of the month following 30 calendar days of employment. In the event of a work-related medical condition, these time constraints will be waived.
- B. A completed *Application for Modified Duty Assignment* form must be submitted in accordance with the process outlined in this Policy.
- C. A certified medical provider (treating physician) must certify that the employee is medically unable to perform the duties of their current job description. It is the responsibility of the employee to provide their physician with a copy of their current job description.
- D. Additionally, the employee is responsible for obtaining all applicable medical/physical restrictions from their treating physician (refer to form *Application for Modified Duty Assignment* form).
- E. If there are no modified duty positions available at the time of application, the employee will be placed on a qualified leave of absence until such time that a modified duty position becomes available, for which the employee meets the qualifications, or the employee is released for full duty.

In determining modified duty assignments, primary consideration will be given to positions within the employee's assigned division, then to equivalent positions within other divisions and, lastly, to other positions. The determination of number of modified duty positions and assignments will be solely at the discretion of the Sheriff and will be based on operational and Office needs. All modified duty assignments will be Monday through Friday, 5/8s in the division assigned unless, assigned to the employee's shift team in a modified role.

\*\*Employees are not eligible for a modified duty assignment unless their temporary medical condition would exceed forty hours of leave. Employees can work in a modified duty assignment for up to a maximum of nine calendar months. Modified duty time cannot be utilized intermittently. Once the employee is placed on modified duty they must be able to return to work after the nine month period. If at the end of nine months, the employee is still unable to be released to full duty, they may be placed on a qualified leave of absence in accordance with County policy. The period of time during which an employee is working in a modified duty assignment will not be counted for purposes of FMLA tracking. While working modified duty, absences related to an employee's illness / injury do count towards FMLA. If an employee is on FTO and/or probation, the time during which they are on a modified duty assignment, does not count towards their probation or FTO status.

An employee will not be required to accept or apply for a modified duty assignment if the injury or illness is not work related. When an employee is cleared for modified duty by a worker's compensation doctor the employee must return to work and apply for a modified duty status. The member cannot stay at home once the worker's compensation doctor has decided they can return to work in a modified duty status or return to a full duty status unless the modified duty restrictions do not meet the needs of the Office. If an employee is not eligible for consideration or chooses not to request a modified duty assignment or declines an assignment, they will be required to follow the DCSO and County leave policies (see P&P-L-100).

### **III. ESSENTIAL JOB FUNCTIONS & APPLICATION PROCESS**

When an employee can no longer perform all of the essential job functions due to a temporary medical condition, they must notify their supervisor according to Worker's Compensation, FMLA, and other applicable DCSO / county policies. If all eligibility requirements are met and the employee wants to be considered for a modified duty assignment, they must complete the *Application for Modified Duty Assignment* form and send it to Professional Standards for review.

The application for modified duty requires the employee to provide medical information so that the modified duty assignment does not unreasonably place the employee at risk of exacerbating their temporary medical condition. An employee is required to have their treating physician complete the applicable parts of the *Application for Modified Duty Assignment* form. Additionally, at the time of application, the employee may be asked to sign a Release of Medical Information Waiver form so that Professional Standards can

verify the temporary medical condition throughout the time the employee is on modified duty status.

Once the forms have been received by Professional Standards, they will contact the employee's division captain to determine if the employee is in good standing, if a modified duty position exists, what duty the employee will be assigned, and to verify that the employee is fully able to meet both the job qualifications and physical requirements based on physician-provided information. If such a modified duty position is available, Professional Standards will clear the assignment with the Chief Deputy and then may offer the employee such position in writing. The employee can either accept or decline the assignment. If the employee declines the assignment, they will need to utilize appropriate leave for their absence from work. An employee's previously held position may be filled once FMLA has been exhausted. If an employee is not eligible for FMLA benefits, then their position may be filled if they are unable to be released for full duty.

Employees will meet with Professional Standards prior to starting any modified duty assignment. The employee will be informed of any restrictions or expectations of the Office and will be instructed on how to fill out their timesheet. The timesheet will have "modified duty" in the notes field for each day for all modified duty hours worked. The employee will submit their timesheet to the supervisor they are assigned to while on modified duty. That supervisor will in turn submit the timesheet to the personnel coordinator for verification.

Generally, employees who are assigned to modified duty positions will have no direct physical contact with inmates or be assigned to a physical enforcement capacity.

If an employee is required to attend medical appointments while they are on modified duty as a result of their illness or injury, the absence does count towards FMLA (if it is a qualified worker's compensation injury, they may use duty time to attend appointments).

Employees on modified duty will wear appropriate business attire while on modified duty or training uniform consisting of a polo shirt and tactical pants. If a commissioned member is able to use their weapon in a safe and efficient manner, they may carry their weapon (employee may be tested to verify ability).

An employee can work in a modified duty position for a maximum of nine months in a rolling calendar year. An employee will be required to provide medical certification on a monthly basis to ensure they continue to be qualified to perform the essential functions of the modified duty assignment.

In all cases of leave for temporary medical condition, Douglas County reserves the right to request a second medical opinion at Douglas County's expense. Professional Standards may consult with Douglas County Human Resources at any time to assist in determining an employee's eligibility. Additionally, should the DCSO determine at any time that the operational needs of the office no longer enable a modified duty position to

exist, the employee may be removed from the modified duty assignment and placed on a qualified leave.

#### **IV. MODIFIED DUTY COUPLED WITH OTHER LEAVE**

While an employee is on modified duty the time on modified duty does not count towards FMLA time unless they are absent due to their illness or injury. If an employee has exhausted FMLA and modified duty time and is still unable to complete the essential job functions of their position then they may be eligible for Medical Leave Status, provided they meet all the eligibility requirements of the Medical Leave Status Policy. During this medical leave status period, the employee remains insured on their elected benefits and eligible for the County contribution if premiums are paid in full monthly. An employee may be on medical leave status for a total of one year from the time of the qualifying medical condition (excluding the time on modified duty but including FMLA time).

For the complete Medical Leave Status policy, including details regarding general exclusions, medical leave certification requirements, return to work and/or expiration of Medical Leave Status and pay while on Medical Leave Status, please see the Douglas County policy or contact the Human Resources Department.

#### **V. RETURN TO DUTY**

If released to full duty within nine months of a modified duty assignment, the employee will return to the same or equivalent position. If an employee's previous position has been filled during the employee's absence and there is a vacant position in the same or similar job title, the employee may be reinstated into that vacant position. It is the responsibility of commissioned personnel to become current on all required training (e.g.; ACT, driving and/or range qualifications) once they are released to full duty.

Once released to full duty the employee will meet with Professional Standards prior to returning to work. The employee will provide medical release documentation and receive approval to return to their regular assignment. Professional Standards will evaluate the training required to return to work and ensure the correct paperwork has been received and completed.

#### **VI. EMPLOYEE IS UNABLE TO RETURN TO FULL DUTY**

If an employee on a modified duty assignment is unable to return to full duty at the end of a nine month period, they will be placed on a qualified leave of absence. At this time, the employee may use accrued sick or vacation time or may be eligible to apply for FMLA, STD or LTD benefits. While an employee is on modified duty, the time spent does not go towards the thirty day 'elimination period' for consideration of short-term disability.

Once an employee on worker's compensation has reached Maximum Medical Improvement and are still unable to be released to full duty by their treating physician, Risk Management and Human Resources will be contacted to determine other options. (i.e., long-term disability, medical leave status, etc.). If the employee cannot return to full duty status within nine months from the time of the qualifying medical condition (does not include modified duty time, but does include FMLA), they may be required to complete the formal hiring process should they desire to reapply for vacant positions.

**VII. MEDICAL RECORDS AND DOCUMENT MANAGMENT**

Employee medical records are confidential. When an employee is on modified duty, all employee medical documents/records, modified duty work plans, and other related documents shall be immediately forwarded to Professional Standards. Professional Standards shall maintain these records in a confidential manner in accordance with Office policy.

This policy is not intended to alter any rights that an employee may have under ADA or any other provisions of state or federal law.

By Order of the Sheriff