

ELIZABETH POLICE DEPARTMENT GENERAL ORDERS



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SUBJECT: TEMPORARY MODIFIED DUTY

EFFECTIVE DATE:

March 30, 2020

ACCREDITATION STANDARDS:

N/A

BY THE ORDER OF:

Deputy Chief Giacomo Sacca

BY AUTHORITY OF:

Police Director Earl J. Graves

SUPERSEDES ORDER #:

Purpose The purpose of this General Order is to establish the procedures necessary for granting Temporary Modified Duty to eligible officers within the Police Department. This Order applies to all officers regardless of assignment or rank.

Policy It is the policy of the Elizabeth Police Department that eligible employees be given a reasonable opportunity to work in Temporary Modified Duty assignments when available and consistent with this policy. Temporary Modified Duty assignments, when possible, are for officers and other eligible personnel in the Department who, because of injury or illness, are temporarily unable to perform their regular assignments but can complete alternative duty assignments. The use of temporary modified duty can provide employees with an opportunity to remain productive while convalescing. Temporary Modified Duty assignments are limited to 90 calendar days.

Definitions

- A. Eligible Personnel - For purposes of this policy, a sworn member, suffering from medically certified illness, injury, or condition who is temporarily unable to perform their regular assignment but can perform alternative administrative duties. Personnel must be able to complete agency required qualifications and be able to work within police headquarters free from the risk of exacerbating their injury or illness.
- B. Family Medical Leave Act (FMLA) - A Federal law that provides for up to twelve (12) weeks of leave for eligible workers. FMLA covers severe health conditions or other situations, as outlined in the law and the City of Elizabeth's FMLA policy.

- C. Temporary Modified Duty - An assignment that is designated and approved for 90 days by the Police Director. A modified duty post for convalescent purposes granted with the expectations that the employee shall return to full duty within 90 days as determined by the Police Surgeon.
- D. Functional Capacity Exam (F.C.E.): A medical exam administered by the Police Surgeon to all employees classified as sick, injured, convalescent duty/temporary duty after thirty (30) calendar days or at any time as determined by the Police Director.
- E. Full Duty – The ability of an employee to work at full functional capacity without the assistance of reasonable accommodations. Full Duty includes the ability to satisfactorily meet all State and Agency requirements such as firearms qualifications and the completion of departmental assigned training courses.

Procedure

A. General Provisions

1. Temporary Modified Duty positions shall be limited in number, task, variety, and availability as determined by the Police Director.
 - a. The Police Director may grant extensions of Temporary Modified Duty assignments to employees injured in the line of duty.
 - b. Temporary Modified Duty assignments may be changed at any time if deemed in the best interest of the employee or the agency.
2. This policy in no way affects the privileges of employees under the provisions of the Family and Medical Leave Act, Fair Labor Standards Act, Americans with Disabilities Act, Collective Bargaining Agreement, or other valid ordinance or law.
3. Assignment to Temporary Modified Duty shall not affect an employee's pay classification, pay increases, promotions, retirement benefits, or other employee benefits.
4. Agency members shall not establish positions within the Department for use as a permanent Temporary Modified Duty assignment, nor shall any existing position be designated or utilized exclusively for Personnel on Temporary Modified Duty.
5. Modified Duty assignments are strictly temporary and shall be for 90-day periods. (Modified Duty may be provided for a total of 90 days in one year, with a year defined as beginning on the first Modified Duty day and ending 12 calendar months after the first Modified Duty day). After 90 days, Personnel on Temporary Modified Duty who are not capable of returning to their original duty assignment:
 - a. May pursue other options as provided by employment provisions under federal or state statute, or collective bargaining agreement.

- b. Shall be sent to a Functional Capacity Examination (F.C.E.) to determine whether the employee is permanently disabled for their position and be the subject of a voluntary or involuntary disability pension.
 - c. Personnel injured in the line of duty and applying for an Accidental Disability Pension can request 90-day extensions pending a resolution of their case by the Pension Board.
6. Officers on temporary modified duty are prohibited from engaging in outside employment and/or Extra Duty Assignments, which involve potential law enforcement activities and activities that the officer is unable to physically or mentally perform on behalf of the Department.
7. Officers on temporary modified duty shall be permitted to attend court sessions and work overtime with the approval of the Chief of Police. The Chief of Police must be the authorizing supervisor that signs any modified duty officer's overtime slip.
8. Depending upon the nature and extent of the injury or illness, an officer on Temporary Modified Duty may be prohibited or restricted from wearing a departmental uniform, carrying a weapon or otherwise limited in employing police powers as determined by the Chief of Police.
9. Officers who incur a duty-related injury and refuse a temporary modified duty assignment may be subject to loss of Worker's Compensation benefits. However, such officers may be covered by FMLA provisions.
10. Temporary Modified Duty shall not exceed 90 days unless specific authorization is granted for an injury in the line of duty by the Police Director.

B. Temporary Modified Duty Assignments

1. Temporary Modified Duty assignments may be drawn from a range of technical and administrative areas that include but are not limited to the following:
 - a. Administrative functions (e.g., report review, special projects)
 - b. Clerical functions (e.g., filing)
 - c. Report taking (e.g., telephone reports)
 - d. Communications functions
 - e. Technology/Telecommunication functions
 - f. Community Affairs activities.
2. The Chief of Police shall make decisions on Temporary Modified Duty assignments based on the availability of an appropriate assignment given the applicant's skills, knowledge, and abilities and the physical limitations imposed on the officer.
 - a. When available, the work hours of a Modified Duty assignment are subject to the needs of the Department and the availability of necessary equipment or workspace.

- b. When an officer is unavailable for full duty, due to medical restrictions, military, or administrative leave, they will be temporarily removed from their full duty shift schedule and reassigned to an administrative schedule.
- c. The administrative schedule will reflect a 40-hour workweek of Monday through Thursday from 0700 to 1700 hours. Commanding Officers shall ensure the processing of administrative schedules along with the daily shift exceptions.

C. Requests for Assignment to Temporary Modified Duty

1. Employees are to submit requests for Temporary Modified Duty assignments through the Personnel Office to the Chief of Police. Requests shall be accompanied by a statement of medical certification to support a requested reassignment, which must be signed by the treating physician. The certificate must include an assessment of the nature and probable duration of the injury or illness, prognosis for recovery, nature of work restrictions.
2. The Chief of Police shall forward a request for Temporary Modified Duty to the Police Director. The Director may consult with the Police Surgeon before deciding on an officer's eligibility for Temporary Modified Duty. If the Police Director grants an officer a Temporary Modified Duty assignment, the Director shall inform the Chief of Police who shall arrange for the officer's assignment.
 - a. The Department may require the employee to submit to an independent medical examination (Functional Capacity or Psychological Examination) by a health provider of the Department's choosing.
 - b. The Police Department may also require that an employee's attending physician have a conference with the Police Surgeon or City of Elizabeth's hired physician for clarification on an employee's prognosis.
3. Employees not eligible for FMLA Leave may be offered a Temporary Modified Duty assignment upon submission of a request from the officer's unit commander to the Police Director.
4. Employees on Temporary Modified Duty are required to submit to a monthly physical assessment report by their attending physician. The physician's statement must contain an update on the employee's condition and their projected return to full employment.