

## **ADMINISTRATIVE ORDER NUMBER 2-20**

### **SUBJECT: Sick Leave Policy**

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**Responsible Department: Personnel Services**

**Date Issued: 01-01-2000**

**Date Revised: 11-7-2018**

**Approved: *Signature on File***

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### **Purpose**

The purpose of this policy is:

- To establish uniformity in the method of reviewing employees' Sick/Annual Leave usage and the guidelines for imposing a medical practitioner's verification requirement; and,
- To ensure compliance with federal and state mandated leave which is considered "Protected Leave." The designation of Protected Leave ensures such leave will not have any adverse impact on an employee for taking leave under state and federal mandates.

It is management's responsibility to ensure that Sick/Annual Leave usage and absenteeism do not adversely affect the department's ability to provide service to the public. Excessive absenteeism is costly, time-consuming, and a hindrance to department progress. Sick/Annual-Leave usage will therefore be monitored, identified, and subject to verification, if necessary.

### **Policy**

This is a Citywide policy; however, consult with applicable Memoranda of Understanding for modifications and/or exemptions to the application of this Administrative Order. Sick/Annual Leave is a benefit to be used when an employee, or the employee's spouse, registered domestic partner, children, parents, grandparents, grandchildren or siblings is ill or injured, or when an employee is a victim of domestic violence, sexual assault, or stalking as described in Labor Code Section 230(c) and Labor Code Section 230.1(a). Sick/Annual Leave can also be used for medical/dental appointments and any time when the use of medication inhibits an employee's ability to perform their job tasks. It is the employee's responsibility to come to work healthy and able to safely perform their job duties.

Employees covered by this policy are allowed to use up to the amount of Sick Leave or Annual Leave used for sick leave that would be accrued during six months at the employee's then current rate of entitlement each fiscal year for Protected Sick Leave, to care for themselves or for members of their immediate family (as defined by the State of California Labor Code, Chapter 164, Section 233). Protected Sick Leave may be used

to actually care for or arrange for the care of family members who are ill and cannot care for themselves, or to take family members to routine medical or dental appointments. Employees taking leave in accordance with Labor Code 233 are not required to provide medical certification for the leave.

An employee may use up to half of their Supplemental Sick Leave earnings as Protected Leave under Labor Code Section 233, if the employee earned Supplemental Sick Leave in the fiscal year. Or, an employee may use either Supplemental Sick or Frozen Sick Leave if the employee has no Annual or Sick Leave remaining, but has not used all Protected Leave under State Labor Section 233 for the fiscal year.

Protected Sick Leave differs from Family Care Leave (Family Medical Leave Act) in that the latter is intended for long-term, serious medical care of the employee or family member, as defined in Administrative Order 2-19.

If patterns in the use of Sick/Annual Leave (e.g., Fridays and Mondays, extensive use of non-protected Sick/Annual Leave) appear abusive, an immediate review may be warranted. Any Sick/Annual Leave usage that is determined by the supervisor to be disruptive to the routine functions of the department may be grounds for immediate review. In cases of suspected abuse or misuse of sick leave, the supervisor may, at their discretion, impose a medical practitioner's statement requirement without prior counseling.

It is the responsibility of every employee to maintain their physical and mental well-being so that they are capable of assuming an equal share of the workload. It is also expected that an employee achieve a maximum level of productivity.

## **Procedures**

1. The manager, or designee, will review Sick/Annual Leave usage biannually, in January and July, for any employee exceeding 32 hours of non-protected usage; 48 non-protected hours for 56-hour employees) in the previous six-month period.
2. Records indicating non-protected Sick/Annual Leave usage in excess of the review limit will be examined further.

Leave of Absence requests will be reviewed to determine how many hours of Sick/Annual Leave were hours that, for the purposes of this policy, are to be considered excused. Sick Leave hours used for the following reasons are excused from consideration for corrective action:

- a. Any Sick/Annual Leave protected under state or federal law, including, but not limited to leave taken under California Labor Code Section 233, FMLA, CFRA, and Pregnancy Disability Leave.
- b. Pre-approved, scheduled appointments with a medical practitioner of less than four hours. Multiple appointments on the same day, such as those

for lab tests and x-rays that take longer than four hours, will be considered exempt. For appointments of more than four hours, employees will be required to submit a statement from the medical offices verifying the appointment(s). This does not preclude the department from requiring verification notes for all medical/dental appointments as provided in FMC Section 3-107(f).

- c. Sick/Annual Leave used for Workers' Compensation absences.
  - d. Sick leave used for a death in the immediate family, during the hospitalization of a member of the immediate family, or on the day of the birth of an employees' child, as provided in FMC Section 3-107(i). In such cases, absences for these purposes may be authorized on special leave only if a medical practitioner provides a written statement that the employee's presence at the hospital is required.
  - e. An ongoing medical condition of a serious nature, e.g., diabetes or chemotherapy. Employees will be required to submit a letter from a medical practitioner indicating the estimated length and frequency of absences.
  - f. Surgery and/or hospitalization. Employees will be required to submit a medical practitioner's statement.
3. Employees whose non-protected Sick/Annual Leave hours exhibit patterns of excessive use should first be counseled and advised to reduce Sick/Annual Leave usage.
  4. Employees who are counseled will have their Sick/Annual Leave usage reviewed on a regular basis to determine if their usage continues to be excessive, until such time that their leave usage is no longer excessive. If the usage is not excessive, no further action is required. If it continues to be excessive, the manager or designee will prepare a Letter of Understanding informing the employee of a medical practitioner's statement requirement. The employee will be required to provide written verification, from the medical practitioner, for all Sick Leave time, or Annual Leave time used for the purpose of sick leave, absence until such time as the sick leave usage is no longer excessive.
  5. Should the employee fail to submit a signed medical practitioner's excuse for any absence during the review period, that absence will be treated as "Unauthorized Leave Without Pay." Supervisors would take action to ensure that employees are placed on Leave Without Pay for any unverified absences. If the supervisor fails to take such action, the leave will be deducted from the employee's Sick, Annual or Vacation Leave balance.

6. Should the employee's Sick Leave usage or Annual Leave used for the purposes of sick leave indicate the employee's attendance has improved for three-months after the requirement for a medical practitioner's excuse, the requirement will cease. This does not preclude the manager or designee from requiring a medical practitioner's verification if individual circumstances warrant it. Should the employee's Sick Leave or Annual Leave used for sick leave usage remain above the limit, the medical practitioner's verification requirement shall be extended.
7. If an employee's usage remains within the limit for a 24-month period following removal from the medical practitioner's verification requirement, or initial counseling session, the first step for any future action will be counseling, as provided in "3" above.
8. If an employee's Sick/Annual Leave usage continues to be excessive, progressive corrective action as defined in Administrative Order 2-14 may be taken, up to and including suspension or dismissal. Before progressive corrective action is taken, an employee's Sick/Annual Leave usage over their City career will be considered in determining the appropriateness of discipline.