

CITY OF TEXAS CITY



Disability Management and Supplemental Leave Policy

CITY OF TEXAS CITY
ADMINISTRATIVE POLICY
DISABILITY MANAGEMENT AND SUPPLEMENTAL LEAVE POLICY

SECTION 1.00 PURPOSE:

To provide guidelines for managing both job-related and off-the-job injuries and illnesses to achieve consistency and uniformity, as well as compliance with applicable laws. Effective date: January 26, 1992.

1.01 POLICY STATEMENT:

It is the policy of the City of Texas City to attempt to return employees who are absent from work due to disability, illness, injury or other medical condition to productive positions at the earliest appropriate time. The City will attempt to return, with reasonable accommodation, such an employee to the position held or to another vacant position for which the employee qualifies. Vacant positions are those approved by the City Commission in the annual budget process. Employees and supervisors are responsible for cooperating fully with all aspects of this policy.

1.02 DISCLAIMER:

The Provisions of the Local Government Code, Chapter 143, and/or the provisions contained in the Collective Bargaining agreements established pursuant to Article 5154c V.A.T.S., shall take precedence over this policy whenever the provisions of this policy are in conflict therewith.

SECTION 2.00 DEFINITIONS:

Supplemental Injury Leave – Paid leave provided to full-time, regular employees to make up the difference between Worker's Compensation benefits (Temporary Income Benefits) and gross pay.

Workers' Compensation Benefits – Benefits provided under the Texas Workers' Compensation Act.

Modified Duty Assignment – Temporary assignment of an employee with a temporary disability to include illness, injury, or medical condition, to duties that can be performed within the limitations to the employee's medical condition. Modified duty assignments are for a period of ninety (90) days and must be approved by the Department Head. Any extensions of Modified Duty beyond the initial ninety (90) days would have to go before the Disability/Injury Committee for approval.

Disability/Injury Committee – A Committee composed of three(3) citizens designated by the Mayor who will be charged with handling appeals under this policy. This board will be a standing committee made up of the same members who serve on the CIVIL SERVICE COMMISSION or alternated appointed by the Mayor.

"Course and Scope of Employment" – As defined by the Texas Workers' Compensation Act, means "an activity of any kind or character that has to do with and originates in the work, business, trade, or profession of the employer and that is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer. The term includes activities conducted on the premises of the employer or at other locations.

Reasonable Accommodation – A modification of the work environment or work process that enables a person with a disability to perform the essential functions of the job. The determination of what accommodations are reasonable shall be made by the Department Head.

Disability – Under the Americans with Disabilities Act, an individual with a disability is a person who has a physical or mental impairment that substantially limits one or more major life activities; who has a record of such impairment; or is regarded as having such an impairment.

Qualified Person with a Disability – Under the Americans with Disabilities Act of 1990, and individual with a known disability who is qualified to perform the essential functions of the job with or without reasonable accommodation. A qualified individual with a disability is one who satisfies the job-related requirement of the position. Job requirements include educational background, employment experience, skills, licenses, and any other qualification standards that are job related.

Illness, Injury or Medical Condition – A temporary or permanent physical or mental impairment that does not substantially limit one or more of the major life activities of an individual.

Job-Related Illness/Injury – A disability, illness, injury or medical condition which occurred as the result of the employee performing the assigned duties of his/her occupation within the course and scope of employment.

SECTION 3.00 JOB-RELATED ILLNESS/INJURY

3.01 SUPPLEMENTAL INJURY LEAVE

Employees with a job-related injury are eligible to receive Workers' Compensation Benefits in compliance with the Texas Workers' Compensation Act. In addition, regular full-time employees are eligible to receive Supplemental Injury Leave as follows:

- Civil Service employees receive up to one(1) year of injury leave.
- Non-Civil Service employees receive up to sixty(60) working days of injury leave.

Supplemental Injury Leave will also be provided when the employee sustains a job-related injury, returns to work, later begins losing time due to the initial injury, and qualifies to receive Workers' Comp temporary income benefits. In no case will the employee be provided more that the allowed limit of leave time for the same injury.

Supplemental Injury Leave should not result in increasing the employee's gross pay beyond regular gross pay before the illness/injury. Bring home pay is composed of the weekly non-taxable Workers' Compensation benefit check and the supplemental leave.

An employee receiving Workers' Compensation weekly benefit checks should never receive both a full regular paycheck and the weekly comp check. In the event an overpayment occurs, an employee shall repay the overpayment amount. Unless the employee initiates the repayment, a repayment schedule will be set up by the Payroll Department in order to deduct the overpayment amount from the employee's paycheck.

Supplemental Injury Leave may be denied or discontinued when the employee:

- a. fails to report the injury or illness as required by City policy.
- b. fails to report to a physician or an independent medical review selected

- by the City; this includes the initial treating physician and any referrals made by the treating physician.
- c. Fails to give written consent for the release of all pertinent information to the City of Texas City or later withdraws consent.
 - d. Does not follow the recommended medical care, physical therapy, rehabilitation or modified duty program for the employee.
 - e. Is found to be working at any job, including self-employment, that violates the employee's treatment plan as prescribed by the treating physician or is found to be participating in any activity that impedes the employee's progress of recovery.
 - f. Resigns, retires, dies, or is terminated for any reason.
 - g. Fails to comply with the treating physician's instructions regarding treatment of the disability, illness, injury or medical condition.
 - h. Refuses to perform any modified duty assignment that is within the physician parameters provided by the treating physician and offered by the Department Head, or Disability/Injury Committee.
 - i. Refuses to accept or perform a different job which the Department Head or Disability/Injury Committee offered when it is within the employee's physical capacity and the employee meets the minimum qualifications.
 - j. Falsifies or misrepresents his/her disability, illness, injury or medical condition.
 - k. Violates established safety rules or any other City work rules.
 - l. Becomes disabled, ill, injured, or acquires a medical condition as a result of working out of the course and scope of his/her regular duties and job assignment.
 - m. Refuses to return to regular duty on the day specified by the treating physician as being released to return to regular duty.
 - n. Fails to contact his/her immediate supervisor on a regular basis, as established by the supervisor, of his/her condition and expected day of return.
 - o. Ceases to be eligible for Workers' Compensation benefits.

3.02 DISABILITY MANAGEMENT PROVISIONS

When an employee is unable to perform the essential functions of his/her position, with reasonable accommodation, due to a disability, illness, injury, or medical condition, the Department Head, with the approval of the Mayor, may deem the position vacant and fill the position when business necessity requires.

3.03 JOB-RELATED ILLNESS/INJURY

An employee who has a job-related illness or injury that renders the employee incapable of performing his/her regularly assigned duties shall first utilize the Supplemental Injury Leave as stated above. If the employee remains unable to return to work once the Supplemental Leave is exhausted, the employee may use accrued Compensatory Time, Holiday, and Vacation Leave balances accrued up until the time of disability, if so elected by the employee in writing.

The City will maintain employment of an individual with a disability, illness, injury, or medical condition who is unable to perform the essential functions of the position with reasonable accommodation for a maximum period of six months from the date that the disability, illness, injury, or medical condition commences. In no case will the employee be provided more than a total of six (6) months of leave for the same disability, illness, injury, or medical condition.

If leave balances remain available at the end of the six(6) month period defined above and the employee is unable to obtain written documentation from the treating physician that he/she may be able to perform

the essential functions of the job with reasonable accommodation, the employee shall be terminated or retired (if applicable) and paid the amount of remaining leave balances in accordance with applicable City Policies. The terminated employee may reapply for employment and his/her application will be given the same amount of consideration as other applications received for the open positions.

3.04 MODIFIED DUTY ASSIGNMENT

While the Department Head will make every effort to provide modified duty assignments, they are under no obligation to provide such assignments, and this policy does not create such an obligation. All modified duty assignments are temporary in nature and are as defined herein.

The City's modified duty program is based on the belief that it is in the best interest of both the employee and the City for an employee to return to work in some capacity following a job-related illness, injury, or medical condition. Under this premise, the Department Heads are instructed to work with supervisors to identify possible modified duty assignments within their departments. Modified duty assignments will be administered and defined in accordance with the American with Disabilities Act.

Modified duty assignments are limited to those employees who have:

1. Sustained an injury in the normal course of performing duties.
2. Are eligible to receive Worker's Compensation Benefits.
3. Have obtained a release to perform the assigned duties.
4. Have provided a physician's report to the Department Head indicating that the person will be able to return to his/her regular duties within a ninety(90) day period.

The Department Head reserves the right to require an independent physical analysis/assessment upon return to modified duty.

Modified duty assignments are for a period of ninety (90) days and must be approved by the Department Head. An extension must be approved by the Disability/Injury Committee and in no case shall the modified duty assignment extend beyond a 180 day period from the date of injury.

An employee who is released to return to work in less than a full-duty status by the examining physician may be required to work in a position or department other than his/her original position or department. Work duties shall be assigned in accordance with the employee's limitations and the needs of the department or overall City services. An employee with modified duty assignment will be expected to cooperate and fully perform the modified duty assignment and the employee is subject to all City policies and procedures.

An employee with a modified duty assignment will be required to continue to present progress reports semi-monthly (2 times per month) to his/her department head or supervisor and after each doctor's visit. Said report shall state the employee's progress and the expected date of return to full duty.

3.05 RETURN TO WORK FOR FULL DUTY – JOB RELATED ILLNESS/INJURY

An employee returning to work after being unable to work due to a job-related disability, illness, or medical condition must provide a written release from the attending physician, indicating the employee's fitness to return to work.

The Department Head reserves the right to require an independent physical/mental assessment, at the City's expense, upon the request to return to work of an employee from a work-related disability, illness, injury, or medical condition.

The Department Head may refuse to allow an employee to return to work if the performance of the job would pose a significant risk of substantial harm that cannot be reduced to an acceptable level through a reasonable accommodation.

The employee will be paid, if follow-up doctor visits or continuing physical therapy are necessary after returning to work from a job-related injury/illness, and the employee could not schedule them so that they do not interfere with the employee's normal work schedule. Proof of such visits or appointments will be required.

3.06 JOB REASSIGNMENT

Should an employee be unable to return to work in his/her current position due to a disability, the Department Head may provide job reassignment, if available, as a reasonable accommodation, in accordance with the Americans with Disabilities Act of 1990.

Job reassignments are not guaranteed.

If a position for which the employee is qualified is vacant and in the same department as the position held by the employee, the Department Head may reassign the employee to the vacant position.

If the vacant position is in another department, such request will be discussed with the Department Head of the hiring department before such a decision will be made. The employee must submit a written statement of intention for the position. Interviews with the hiring supervisor will be conducted and any other steps or requirements of the hiring process shall also be required.

The Department Head, with approval of the Mayor, may reassign an employee to a lower graded position if there are no accommodations that would enable the employee to remain in the current position and there are not positions vacant for which the employee is qualified (with or without an accommodation). The City does not have to maintain the individual's salary at the level of the original position. The City is not required to create a new job or to bump another employee from a job in order to provide reassignment.

It will be the employee's responsibility to contact the Personnel Director, to identify positions in other departments which he/she may be qualified and physically able to perform, and to apply for such positions. An employee may be refused a job reassignment if the performance of the new job would pose a significant risk of substantial harm that cannot be reduced to an acceptable level through a reasonable accommodation.

3.07 REASONABLE ACCOMODATION

A reasonable accommodation, if available, will be provided to any otherwise qualified employee with a known disability as defined by the Americans with Disabilities Act of 1990, and as described in the administrative policy entitled "Reasonable Accommodations".

3.08 FITNESS FOR DUTY EXAMINATION

The Department Head may request a physical examination by a City approved physician if a question arises as to whether or not the employee can physically or mentally continue to perform the essential functions of his/her position. The City shall pay for the cost of such examinations. This physical examination shall be job-related and consistent with business necessity.

SECTION 4.00 NON-JOB-RELATED ILLNESS/INJURY

4.01 DISABILITY MANAGEMENT PROVISIONS

When an employee is unable to perform the essential functions of his/her position, with reasonable accommodation, due to a disability, illness, injury, or medical condition, the Department Head, with the approval of the Mayor, may deem the position vacant and fill the position when business necessity requires.

4.02 OFF-THE-JOB ILLNESS/INJURY

An employee who has an off-the-job illness/injury that renders the employee incapable of performing his/her regularly assigned duties shall use his/her accrued Sick Leave, Compensatory Time, Holiday, and Vacation Leave balances accrued up to the time of the disability. Leave balances shall be substituted as per above except in case of events covered under the Family and Medical Leave Act.

The City will maintain employment of an individual with a disability, illness, injury, or medical condition who is unable to perform the essential functions of the position with reasonable accommodation for a maximum period of six (6) consecutive months from the date that the disability, illness, injury, or medical condition commences. If the employee returns to work during the initial six (6) month period and works less than three (3) consecutive months due to disability, illness, injury, or medical condition, the initial work missed will be counted toward the six (6) month period.

If leave balances remain available at the end of the six (6) consecutive month period defined above and the employee is unable to obtain written documentation from the treating physician that he/she may be able to perform the essential functions of the job with reasonable accommodation, the employee shall be terminated or retired (if applicable) and paid the amount of remaining leave balances in accordance with applicable City Policies. The terminated employee may reapply for employment and his/her application will be given the same consideration as other applications received for open positions.

4.03 MODIFIED DUTY ASSIGNMENT

While the Department Head will make every effort to provide a modified duty assignment, they are under no obligation to provide such assignments, and this policy does not create such an obligation. All modified duty assignments are temporary in nature.

The modified duty program is based on the belief that it is in the best interest of both the employee and the City for an employee to return to work in some capacity following a non-job-related illness, injury or medical condition. Under this premise, the Department Heads are instructed to work with supervisors to identify possible modified duty assignments within their departments. Modified duty assignments will be administered and defined in accordance with the Americans with Disabilities Act.

Modified duty assignments under this section are limited to those employees who have obtained a release to perform the assigned duties and have provided a physician's report to the Department Head indicating that the person will be able to return to his/her regular duties within a 90-day period.

The Department Head reserves the right to require an independent physical analysis/assessment upon return to modified duty.

Modified duty assignments for a period of 90 days and must be approved by the Department Head. An extension must be approved by the Disability/Injury Committee and in no case shall the modified duty assignment extend beyond a 180 day period from the date of injury or illness.

Under this section, an employee who is released to return to work in less than a full-duty status by the examining physician may be required to work in a position within their department other than his/her original position. Work duties shall be assigned in accordance with the employee's limitations and the needs of the department. An employee with modified duty assignment will be expected to cooperate and fully perform the modified duty assignment and is subject to all City Policies and Procedures.

An employee with a modified duty assignment will be required to continue to present progress reports semi-monthly (2 times per month) to his/her department head or supervisor and after each doctor's visit. Said report shall state the employee's progress and the expected date of return to full duty.

4.04 RETURN TO WORK FOR FULL-DUTY --- NON-JOB RELATED ILLNESS/INJURY

In the case of an employee who returns to work from an off-the-job illness, injury, or medical condition the employee would be required to furnish proper forms relating to sick leave policies. The supervisor would require a release from the attending physician if he/she believes the employee's disability, injury, or medical condition may not permit the employee to safely perform the job or if working could aggravate the injury. The supervisor may also request and obtain physician verification of the circumstances surrounding the use of leave time.

The Department Head reserves the right to require an independent physical/mental assessment, at the City's expense, upon the request to return to work of an employee from a non-work related disability, illness, injury or medical condition.

The Department Head may refuse to allow an employee to return to work if the performance of the job would pose a significant risk of substantial harm that cannot be reduced to an acceptable level through a reasonable accommodation.

If follow-up doctor visits or continuing physical therapy are necessary after returning to work from a non-job related injury/illness the employees may use any available sick leave or leave without pay.

4.05 JOB REASSIGNMENT

Should an employee be unable to return to work in his/her current position due to a disability, the Department Head may provide job reassignment, if available, as a reasonable accommodation, in accordance with the American with Disabilities Act of 1990.

Job reassignments are not guaranteed.

If a position for which the employee is qualified is vacant and in the same department as the position held by the employee, the Department Head may reassign the employee to the vacant position.

If the vacant position is in another department, such request will be discussed with the Department Head of the hiring department before such a decision will be made. The employee must submit a written statement of intention for the position. Interviews with the hiring supervisor will be conducted and any other steps or requirements of the hiring process.

The Department Head, with approval of the Mayor, may reassign an employee to a lower graded position if there are no accommodations that would enable the employee to remain in the current position and there are no positions vacant for which the employee is qualified (with or without an accommodation). The City does not have to maintain the individual's salary at the level of the original position. The City is not required to create a new job or bump another employee from a job in order to provide reassignment.

It will be employee's responsibility to contact the Personnel Director, to identify positions in other departments which he/she may be qualified and physically able to perform, and to apply for such positions. An employee may be refused a job reassignment if the performance of the new job would pose a significant risk of substantial harm that cannot be reduced to an acceptable level through a reasonable accommodation.

4.06 REASONABLE ACCOMODATION

A reasonable accommodation, if available, will be provided to any otherwise qualified employee with a known disability as defined by the Americans with Disabilities Act of 1990, and as described in the administrative policy entitled "Reasonable Accommodations".

4.07 FITNESS FOR DUTY EXAMINATION

The Department Head may request a physical examination by a city approved physician if a question arises as to whether or not the employee can physically or mentally continue to perform the essential functions of his/her position. The City shall pay for the costs of such examinations. This physical examination shall be job-related and consistent with business necessity.

SECTION 5.00 MEDICAL RECORDS

All medical records obtained pursuant to this policy will be kept in confidential medical files in the Personnel Department as required by the Americans with Disabilities Act of 1990.

SECTION 6.00 APPEALS

If the employee is not satisfied with the action taken by the Department Head, he/she may appeal to the Disability/Injury Committee. An appeal is simply a written request by an employee for a formal review by the Disability/Injury Committee, of a decision made by the Department Head, which the employee disagrees. Issues relating to policy matters shall not be grounds for an appeal and the Disability/Injury Committee's decision shall be final.

The employee must notify the Disability/Injury Committee is writing, through the Department Head, within 5 working days of the decision of the Department Head. The appeal must state the details of the case and decision rendered by the department head and what action is requested.

The Disability/Injury Committee will review the appeal and gather any additional information needed to make a decision and will provide the employee with a written copy of the decision made within 21 working days of receipt of appeal.

CITY OF TEXAS CITY
ADMINISTRATIVE POLICY
REASONABLE ACCOMODATIONS

SECTION 1.00 PURPOSE:

The purpose of the policy is to implement the provisions of the Americans with Disabilities Act of 1990 regarding the provision of reasonable accommodations to qualified individuals with disabilities. Effective date: January 26, 1992.

1.01 POLICY STATEMENT

It is the policy of the City of Texas City to support the goals of the Americans with Disabilities Act of 1990 and to seek to productively employ qualified individuals with disabilities in the City work force. In some cases, it is recognized that such employment may require the City to make a “Reasonable Accommodation” to an individual who is otherwise qualified to perform the essential functions of a position.

This reasonable accommodation process applies equally to job applicants and to existing employees who have a disability, illness, injury, or medical condition which affects their ability to perform the essential functions of the position to which they are assigned or apply for.

It is the responsibility of the job applicant or employee who has a disability, illness, injury, or medical condition which prevents him/her from performing the essential job functions of the position to request a reasonable accommodation in writing. Once a qualified individual with a disability has requested provision of reasonable accommodation, the City will make a reasonable effort to determine the appropriate accommodation. The City will utilize a flexible, interactive process that involves both the City and the qualified individual with a disability.

SECTION 2.00 DEFINITIONS

Reasonable Accommodation – A modification of the work environment or work process that enables a person with a disability to perform the essential functions of the job. The determination of what accommodations are reasonable shall be made by the City of Texas City.

Disability – Under the Americans with Disabilities Act, an individual with a disability is a person who has: a physical or mental impairment that substantially limits one or more major life activities; a record of such impairment; or is regarded as having such impairment.

Qualified Person with a Disability – Under the Americans with Disabilities Act 1990, an individual with a known disability who is otherwise qualified to perform the essential functions of the job with or without reasonable accommodation. A qualified individual with a disability is one who satisfies the job-related requirements of the position. Job requirements include educational background, employment experience, skills, licenses, and any other qualification standards that are job related.

Illness, Injury, or Medical Condition – A temporary or permanent physical or mental impairment that does not substantially limit one or more of the major life activities of an individual.

Job-related Illness/Injury – A disability, illness, injury or medical condition which occurred as the result of the employee performing the assigned duties of his/her occupation within the course and scope of employment.

Disability/Injury Committee – A committee composed of three (3) citizens designated by the Mayor who will be charged with handling appeals under this policy. This board will be a standing committee made up of the same members who serve on the CIVIL SERVICE COMMISSION or alternates appointed by the Mayor.

SECTION 3.00 REASONABLE ACCOMODATIONS POLICY

When an applicant who has been determined to be a qualified individual with a disability or an existing employee who has developed a disability, illness, injury, or medical condition which prevents him/her from performing the essential functions of the job, desires for the City to consider making a reasonable accommodation to assist in the performance of a job under the provisions of the Americans with Disabilities Act of 1990, that individual will submit a written request to the Department Head. The request should outline the areas of job-related limitation and describe any suggestions the individual with the disability may have for making the reasonable accommodation. The request for reasonable accommodation will be reviewed and approved by the Department Head.

A reasonable accommodation will be provided only when it enables the employee or applicant to perform the essential functions of the job.

The Department Head will follow a four (4)step process in evaluating the request for a reasonable accommodation.

1. The Department Head will analyze the particular job involved to determine its purpose and essential functions.
2. The Department will consult with the individual with a disability to ascertain the precise job-related limitations imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation.
3. In consultation with the Individual to be accommodated, the Department Head will identify potential accommodations and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position.
4. The Department Head will consider the preference of the individual to be accommodated, consult with the Mayor, and select and implement the accommodation that is most appropriate for both the employee/applicant and the City.

In making this decision, the Department Head may consider the following modifications:

- a. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities.
- b. Job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustment of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.
- c. Whether or not the provision of a specific accommodation would create an undue hardship for the City. An undue hardship would be created if the cost of the proposed accommodation is excessive, or if the accommodation significantly impacts the operation of the affected department.

- d. Whether the employment of the individual would create a “Direct Threat” to the health or safety of the individual or others which cannot be eliminated or reduced by a reasonable accommodation. The determination that an individual poses a “Direct Threat” shall be based upon an individualized assessment of the individual’s present ability to perform the essential functions of the job.

Once the Department Head has completed its review of the request for a reasonable accommodation and finds that a reasonable accommodation can be made, the Department Head will submit an offer to the requesting applicant/employee. If the employee accepts the offered accommodation, the individual will be placed in the appropriate position under the terms outlined in the reasonable accommodation.

An employee with a reasonable accommodation duty assignment will be expected to cooperate and fully perform the duty assignment described by the reasonable accommodation. An employee on modified duty assignment as a result of a reasonable accommodation remains subject to all City policies and procedure.

If the individual refuses the Department Head’s offer for a reasonable accommodation, then they will find that the individual is not qualified for the position(s) in question, and will terminate further entitlement pursuant to this policy.

If the Department Head finds that no reasonable accommodation is possible, the Department Head will determine that the individual is not qualified for the position(s) and will so notify the individual.

SECTION 4.00 MEDICAL RECORDS:

All medical records obtained pursuant to the policy will be kept in confidential medical files in the Personnel Department as required by the Americans with Disabilities Act of 1990.

SECTION 5.00 APPEALS:

If the employee is not satisfied with the action taken by the Department Head, he/she may appeal to the Disability/Injury Committee. An appeal is simply a written request by an employee for a formal review by the Disability/Injury Committee, of a decision made by the Department Head, which the employee disagrees. Issues relating to policy matters shall not be grounds for an appeal and the Disability/Injury Committee’s decision shall be final.

The employee must notify the Disability/Injury Committee in writing, through the Department Head, within 5 working days of the decision of the Department Head. An appeal must state the details of the case and decision rendered by the department head and what action is requested.

The Disability/Injury Committee will review the appeal and gather any additional information needed to make a decision and will provide the employee with a written copy of the decision made within 21 working days of receipt of appeal.