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1. PURPOSE

It is the purpose of this policy to establish the authority for temporary limited duty assignments and the County's Return to Work Program for eligible officers and civilian personnel within the Department, who are temporarily unable to perform the duties and responsibilities of their usual and customary (UNC) position due to work-related or personal injury, illness, or disability or non-medical reasons.

2. PERSONS AFFECTED

All department personnel.

3. POLICY

- 3.1. Returning an employee to work as soon as possible after an injury or illness contributes greatly to the employee's recovery. Providing a pregnant employee with temporary limited duty assignments will also assist the employee to monitor her health and safety on the job. A committed effort by the Department to provide temporary limited duty assignments will assist employees in a more speedy recovery, safer work environment, and a sooner return to work date. We are committed to assisting our employees who have become temporarily disabled due to injury or illness.
- 3.2. Temporary limited duty assignments, when available, are for eligible officers and civilian personnel within the Department, who, due to work related or personal injury, illness or disability, are temporarily unable to perform their regular assignments, but who are capable of performing alternative duty assignments. Employees must be deemed by their physician to have a condition that temporarily restricts them from performing their usual and customary duties as described in their respective employment Position Description. The primary purpose of the temporary limited duty assignment is to provide eligible employees with a work-hardening program that will progress to include additional work hours and more strenuous physical tasks that will subsequently return an employee to their usual and customary position. The work hardening program shall not be required of pregnant employees, or employees with a serious personal illness or injury, defined as acute, traumatic, or life threatening. By providing this venue for the employee, it allows the employee an opportunity to remain productive while convalescing, speed up their return to their usual and customary duties, reduce the use of employee benefits, continue their regular salary,

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and provide a work option for employees who may otherwise risk remaining on duty when physically unfit for their usual and customary duties.

- 3.3. Therefore, it is the policy of this department that eligible personnel be given a reasonable opportunity to work in temporary limited duty assignments where operationally feasible and in keeping with our mission to enforce the laws, preserve peace, and provide a safe environment.
- 3.4. Request for temporary limited duty assignment can be initiated by either the employee or the Department.

4. DEFINITIONS

- 4.1. Alternative Work – Work assignment/duties other than employee’s regular duties.
- 4.2. Civil Service Employee – An employee who has been appointed to a position in the civil service in accordance with Chapter 760 of the Hawai‘i Revised Statutes.
- 4.3. Claims Adjuster – A person assigned to manage a worker’s compensation claim filed by an employee.
- 4.4. Commander – Any officer the rank of Captain or above, or head of a section.
- 4.5. Eligibility Period – Initial six-month period in which the employee’s physician projects the return to usual and customary duties for a temporary limited duty assignment. During the six-month period, an updated three-month Estimated Functional Capacity (EFC) shall be submitted by the employee to determine if further hours or duties may be added. The six-month period for the temporary limited duty may be extended by the Police Chief or designee with proper medical documentation and justification. The extension may be requested by the employee to the Chief, for no more than a three-month period, accompanied by an updated EFC, which should include increased duties or hours. Any extension beyond a one-year period shall be at the discretion of the Police Chief or his designee and will be determined by the employee’s medical progress and effort by the employee to return to his/her usual and customary position.

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- 4.5.1. For employees who are deemed permanently unable to return to their usual and customary duties the County's Return to Work Program Procedures shall be applicable. The priority placement begins with the departmental meeting and runs concurrently with the initial 30 days to review options. The eligibility period for priority placement ends with a placement or the completion of one countywide job search within a six-month period, whichever occurs first. Employees may be terminated from the Return to Work Program if they refuse or fail to attend the departmental meeting; do not notify the Department of Human Resources Section with their decision within the 30 calendar day period to review options; fail to submit appropriate paperwork as requested by the Department; refuse an offer of employment; or fail to report to work for the position assigned under the Priority Placement.
- 4.6. Employee – A person employed by the Hawai'i Police Department.
- 4.7. Estimated Functional Capacity (EFC) – Estimated physical and/or mental capabilities and/or restrictions as defined by an appropriate physician and shall be used to identify possible limited duty assignments and/or evaluate employee's progress in the temporary limited duty assignment. EFC forms are attached to this policy as Attachment B (sworn), Attachment C (civilian), and Attachment D (mental residual). At times it may be necessary to re-evaluate an employee to address the employee's current medical condition, which will require a new EFC evaluation.
- 4.8. Human Resources – The Department's human resources program specialist or other person performing the Department's human resources functions.
- 4.9. Limited Duty Description – Temporary position description that the Department has determined to be productive work that is different from the employee's usual and customary duties. These duties are within the physical restrictions set by the employee's or employer's physician. Also referred to as temporary Light Duty Description.
- 4.10. Physician – Includes a doctor of medicine, medical practitioner, dentist, chiropractor, osteopath, naturopath, psychologist, and optometrist, or podiatrist as defined by Chapter 386 of the Hawai'i Revised Statutes (H.R.S.).

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- 4.11. Position Description – Official position description on file with the Human Resources Section to include Identification of Physical Requirements and Environmental Factors and Conditions Form, and if necessary, other documentation/discussion with the Department supervisory staff.
- 4.12. Priority Placement – Priority referral and placement to a suitable job for which an employee meets the minimum qualification requirements, after it is medically determined that the employee is not qualified and able to perform the usual and customary duties of the position occupied.
- 4.13. Regular Work – The usual and customary duties and responsibilities of the employee, prior to the illness or injury, also referred to as usual and customary duties.
- 4.14. Select Priority Placement – When an employee is no longer capable of performing their usual and customary duties as a result of a work related or personal injury or physiological illness, and the employer has no other available work which the employee is capable of performing, and the employee is suspended or terminated, the employee shall be given the preference of re-employment by the employer in any position which the employee is capable of performing and which becomes available after the suspension or termination and during the period thereafter until the employee secures new employment (Chapter 386-142, H.R.S.).
- 4.15. Suitable Position – A position that meets the physical capabilities and qualifications of the individual.
- 4.16. Temporary Disability - Shall include an impairment of either a physical or a mental function, which is determined by a physician not to be permanent in nature.
- 4.17. Temporary Limited Duty – (Sometimes referred to as light duty) Shall mean a temporary assignment of productive work, which conforms to temporary limitations determined by a certified physician, while the employee is physically unable to perform their usual and customary duties.
- 4.18. Usual and Customary Duties– Also referred to as permanent position or regular work. These are the duties that the employee was performing prior to the injury, illness, or disability.

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4.19. Work Hardening Plan – A plan that is developed with the employee, physician, and reviewed by the Commander and Human Resources to project a timetable to return the employee to usual and customary duties. The plan shall include benchmarks for improvement to include increased hours and more physically strenuous duties that will assist the employee in returning to their usual and customary duties. At times this plan may be altered or updated in accordance with the employee’s current medical condition.

4.20. Work Injury – An injury covered under Hawai‘i Revised Statutes Chapter 386, Workers’ Compensation Law.

5. ELIGIBLE PERSONNEL

5.1. For purposes of this General Order, any full-time civil service employee of the police department who is certified by a physician to be temporarily unable to perform their usual and customary duties, but is capable of performing alternative assignments, shall be eligible to participate in this program.

5.2. Employees may also qualify for temporary limited duty assignments which are in accordance to the terms and conditions of General Order 529 (Drug Testing) and current collective bargaining agreements.

6. PROCEDURES

6.1. General provisions

6.1.1. Temporary limited duty positions are limited in number and variety. Therefore,

- a. All temporary limited duty assignments shall be made with the best interest of the Department’s operations in mind.
- b. Personnel injured or otherwise disabled in the line of duty shall be given preference in initial assignment to limited duty.

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- c. Temporary limited duty assignments are intended to be for a duration of six months, but provisions to extend the initial six month limited duty period may be requested and granted with the approval of the Police Chief or designee.
- d. If assignments are not available in the employee's current geographical district, assignment may be made to another geographical district that is reasonable for the employee.
- e. Assignments may be changed at any time after consultation with employee and physician, if it is deemed to be in the best interest of the Department's operations.
- f. If limited duty assignments are not available within the Department, the employee may be referred to the Department of Human Resources, Workers Compensation Branch, for assignment to light duty work in another department.

6.1.2. This policy in no way affects the rights of employees under provisions of the Family and Medical Leave Act, Fair Labor Standards Act, Americans with Disabilities Act, or other Federal or State law.

6.1.3. No specific position within this Department shall be established for use as a limited duty assignment, nor shall any existing position be designated or utilized exclusively for personnel on temporary limited duty.

6.1.4. Temporary limited duty assignments shall be made based upon the employee meeting the minimum requirements for the assignment; employee's knowledge, skills, and abilities; availability of limited duty assignments; and the physical limitations as prescribed by the attending physician.

7. ASSIGNMENT TO TEMPORARY LIMITED DUTY ASSIGNMENTS

- 7.1. Limited duty assignments are strictly temporary and initially should not exceed six months in duration. Employees requesting an initial temporary limited-duty assignment shall:

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- 7.1.1. Submit a "Request For Temporary Limited Duty" form (Attachment A) and required documentation (EFC Forms and Approved Temporary Limited Duty Position Description) to the Police Chief via proper channels no later than two weeks prior to the projected :
- a. Return to work date if the employee is out of work; or
 - b. Start date of the temporary limited duty assignment (e.g. pregnancy, etc.)
- 7.1.2. Employees shall ensure that the attending physician certifies in the space provided that (1) the employee is fit to return to temporary limited duty status; (2) completes the corresponding sworn or civilian Police Department Estimated Functional Capacity Form (EFC/Attachments B, C, and/or D) indicating any restrictions; and (3) the approximate date the employee can return to full duty. The return to duty shall be within six months of the request, whenever possible. If the limited duty period is for three or more months, the employee shall submit a work-hardening plan, reviewed and approved by the attending physician and the commander, to indicate the target benchmarks and projected improvement during the duration of the request. See Attachment E. Employees requesting limited duty for the initial period that is less than three months are not required to submit a work-hardening plan.
- 7.1.3. The commander shall indicate (1) whether or not a temporary limited-duty assignment is available; (2) prepare a temporary limited duty description listing the duties to be performed; and (3) note whether or not the employee will be required to utilize a vehicle in the performance of those duties.
- 7.1.4. The employee shall then have their attending physician review the temporary limited duty description and either approve or reject the duties being provided. If the physician rejects the limited duty description, the employee shall remain off work until his/her estimated functional capacity improves and/or different duties can be identified and approved by the physician. If the limited duty period is three or more months, employee shall develop a work-hardening plan approved by his/her physician and submit it with the request to the commander.

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- a. Requests and extensions of temporary limited duty shall be submitted with supporting documentation from the employee's physician, to the Police Chief via proper channels no later than two weeks prior to their requested return date or six-month expiration date. The employee will receive written notification from the Police Chief or designee via proper channels, whether the request has been approved or denied. Commanders shall immediately inform the employee of the decision. If the notification is not made prior to the date the employee is seeking to return, the employee shall contact his/her commander and follow up with the Chief's Office and remain off work until the decision has been made.

7.1.5. Employees receiving automobile allowances who are granted temporary limited duties shall not have their automobile allowance cancelled during the duration of the initial six-month assignment, regardless of whether the use of an automobile is required.

- a. Should the employee return to their usual and customary duties at the end of their limited duty assignment, they will be entitled to continue to receive automobile allowance, provided that they work a minimum of 30 actual days (excluding vacation, sick leave, or workers compensation).

7.2. Employees may request a three-month extension of their limited duty assignment and shall:

7.2.1. Submit a "Request For Temporary Limited Duty" form (Attachment A) and required documentation (EFC Forms and Approved Temporary Limited Duty Position Description) to the Police Chief via proper channels no later than two weeks before their current expiration date.

7.2.2. Employees shall ensure that the attending physician certifies in the space provided that (1) the Police Department EFC is completed and reflects improvement from the initial EFC to include increased hours and/or more strenuous activities, and (2) the target date the employee can return to full duty. The return to full duty shall be within three months of the extension date, whenever possible.

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- a. If the combined period of the initial limited duty period and extension exceeds three months, the employee shall submit a work-hardening plan, reviewed and approved by the attending physician and the commander, to indicate future benchmarks and additional hours and/or more strenuous duties during the duration of the request. See Attachment E.
 - b. The commander shall (1) indicate whether or not a temporary limited-duty assignment is still available based on any additional personnel injured or otherwise disabled in the line of duty, as they shall be given preference in limited duty assignments; (2) prepare a temporary limited duty description listing the additional duties to be performed based on the updated EFC and the work-hardening plan; and (3) note whether or not the employee will be required to utilize a vehicle in the performance of those duties.
- 7.2.3. The employee shall then have their attending physician review the updated temporary limited duty description and either approve or reject the duties being provided. If the physician rejects the updated limited duty description, it is incumbent upon the employee to meet with the commander to identify different/additional duties to be approved by the physician. Until the process is approved by the Chief or designee, the employee shall remain off work. If the combined period of the initial limited duty and the extension is three or more months, the employee shall develop a work-hardening plan approved by his/her physician and submit it with the request to the commander.
- a. In the event the employee is extended past the initial six-month period, entitlement to automobile allowance will only be applicable if the limited duty position requires the use of an automobile; exceptions may be made for work related injury/illness.
 - b. If the limited duty does not require the use of an automobile, then the allowance during the extension beyond the initial 6-month period will be cancelled.

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c. If the employee is unable to return to their usual and customary duties at the end of the temporary limited duty assignment, the employee shall remain off duty and the automobile allowance will be cancelled according to contract provisions regarding automobile allowance.

7.2.4. Personnel on temporary limited duty who are not capable of returning to their usual and customary duties within a twelve-month period from their initial request may:

- a. Submit another extension request as noted in Section 7.2 above;
- b. Request the use of available leave credits in accordance with the applicable contract provisions, to include sick leave, vacation leave, CTO, and leave without pay. Please note that the Police Chief or his designee shall make the final decision on all requests for leave of absence without pay;
- c. Contact the Employee's Retirement System to review options to include disability retirement or regular service retirement; or,
- d. Pursue other options as provided by employment provisions of this County, State, or Federal law such as transfers, demotions, or movements and notify the Police Chief in writing via proper channels;
- e. If none of the above options are pursued, the employee may be placed on unauthorized leave, and may be subject to disciplinary action.

7.2.5. The Department may recommend temporary limited duty assignment for an injured, ill, or disabled employee upon consultation with the employee and physician, provided that the assignment is in correlation with the Estimated Functional Capacity Form. The Department may also require a medical or psychological fitness for duty examination by a physician prior to accepting an employee back to work.

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- a. Notice shall be provided to the employee of the proposed temporary limited duty assignment, together with justification for the recommendation.
- b. The employee may challenge the proposed temporary limited duty assignment using established grievance procedures.
- c. Pending results of the grievance procedure, an employee may be assigned to temporary limited duty if, in the opinion of the Police Chief, failure to reassign may jeopardize the safety of the employee, other employees or the public.

7.2.6. As a condition of continued temporary limited duty assignments, employees shall submit monthly Estimated Functional Capacity Forms to update their condition or as deemed necessary by the Police Chief.

8. RETURN TO DUTY

- 8.1. Before returning to full duty, employees shall obtain a medical clearance from their attending physician. The medical clearance shall include the date the employee started the temporary limited duty assignment, and the date the employee can return to their usual and customary duties in their regular work. The position title shall be included in the clearance.
- 8.2. In the event the leave resulted in the removal of his/her firearms, a psychiatrist's release to use the firearms shall be submitted via proper channels to the Police Chief on the Police Department's form. Until the firearms are returned to the officer, the employee will not be considered as released to full duty status.

9. TEMPORARY LIMITED DUTY ASSIGNMENTS FOR CAUSES OTHER THAN ILLNESS, INJURY, OR DISABILITY

- 9.1. Employees must submit a memorandum explaining the circumstances for the request and appropriate forms to the Police Chief via proper channels, stating the reason(s) he/she is unable to perform their regular duties. Temporary limited duty assignments of this nature will be considered after other regular request/situations are fulfilled and if work is available.

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9.2. Sworn personnel may be placed on temporary limited duty for non-medical reasons, if they are unable to fulfill their duties in a law enforcement capacity with the approval of the Police Chief for a period not to exceed six months. The Police Chief may extend this period.

9.3. Sworn personnel assigned to temporary limited duty assignments for non-medical reasons and receiving automobile allowance shall have their allowance cancelled if the temporary limited duty does not require the use of an automobile.

10. ALTERNATIVES

10.1. If a member does not qualify for temporary limited duty and is unable to perform job requirements, the following options may be available:

10.1.1. Service-connected disability retirement;

10.1.2. Ordinary disability retirement;

10.1.3. Service retirement;

10.1.4. Leave without pay based on applicable contract provisions;

10.1.5. Temporary or permanent transfer to a position for which the employee meets the minimum requirements of the new class and is physically cleared by his/her physician to perform the essential duties of the new position;

10.1.6. Temporary or permanent demotion (voluntary/disability) to a position for which the employee meets the minimum requirements of the new class and is physically cleared by his/her physician to perform the essential duties of the new position;

10.1.7. Regular or limited term promotion to a position for which the employee is physically qualified and has applied, qualified, and selected according to departmental procedures;

10.1.8. Voluntary resignation