



# Alexandria Police Department

## Directive 4.23



# RESTRICTED DUTY

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### 4.23.01 POLICY/PURPOSE

The Department is committed to providing the residents of the City of Alexandria with efficient and effective police services while balancing the needs of eligible employees who due to injury, illness, or other disability become temporarily unable to perform all of the essential duties, requirements, and responsibilities of their assigned position.

The provision of temporary alternate work, when available, can provide employees with an opportunity to remain productive while recuperating. It can also provide a work option for eligible employees who may otherwise risk their health and/or safety or the safety of others by remaining on duty when physically or mentally unfit for their regular assignment. Therefore, it is the policy of this Department that eligible personnel are given a reasonable opportunity to work in a temporary restricted duty assignment where available, and as provided under these guidelines.

The purpose of this policy is to establish the authority and procedures for the administration of temporary restricted duty assignments to eligible sworn and civilian personnel within this agency. This policy works in conjunction with the Attendance, Leave and Staffing Directive 4.2 and the Family and Medical Leave Act Directive 4.3.

**4.23.02 DEFINITIONS**

**Eligible Employee:** For the purposes of this policy, any sworn or civilian member (full-time or part-time) of this Department suffering from a medically certified illness, injury, or disability requiring treatment from a licensed physician/health-care provider and who, as a result, is temporarily unable to perform all of the essential duties and responsibilities of his or her assigned position but is capable of performing in an alternative work assignment.

**Essential Duties and Responsibilities:** The mandatory job functions each employee must be mentally and physically able to perform, with or without a reasonable accommodation, to be eligible for hire and/or continued employment in their regularly assigned position.

**Full Duty Status:** A job status indicating an employee can perform all the essential duties and responsibilities of their position.

**Reasonable Accommodation:** A modification or adjustment provided to a qualified employee with a disability which enables the individual to be able to perform all the essential functions required of the position.

The elimination of an essential function/duty of an assigned position is not required under ADA.

**Restricted Duty Assignment:** Refers to periods of time when an eligible employee has 1) provided all required medical certification, 2) submitted a request for and has been approved/assigned temporary alternate work.

**Temporary Alternate Work:** A transitional phase wherein work has been identified as available, and within documented work restrictions, which will allow an eligible employee to ease back into work routines without causing further harm. This phase provides the eligible employee the chance to make a meaningful and productive contribution to the Department while allowing a reasonable period for the employee to progress to a return to full duty.

**4.24.03 PROCEDURES****A. General Provisions**

1. This policy in no way affects the privileges and 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.
2. No specific position within this Department shall be established for use as a temporary restricted duty assignment, nor shall any existing position be designated or utilized exclusively for personnel approved for a restricted duty assignment.

3. Approval of restricted duty assignments will be limited to those cases where the incapacity is expected to be more than seven calendar days.
4. Approval and transition into a temporary restricted duty assignment shall not affect an employee's pay classification, pay increases, promotions, retirement benefits or other employee benefits.
5. Temporary restricted duty assignments are discretionary based on departmental needs and limited in number and variety. As such, assignments may be changed at any time, in accordance with physician approved work restrictions, if deemed in the best interest of the employee or the Department.
6. As a condition of continued assignment to temporary restricted duty, the employee shall be required to submit updated medical certification as appropriate to support the request and continued need for an alternate assignment.
7. Employees must follow all applicable departmental restrictions while on temporary restricted duty.
8. Personnel injured or otherwise disabled while on-duty (working for the Police Department and covered by workers compensation) shall be given preference in initial assignment.
9. Employees who sustain a non-work-related injury, illness or disability will be afforded temporary restricted duty assignments according to availability.
10. Restricted Duty Assignments shall not be made for disciplinary purposes.
11. Employees are expected to follow and comply with all requirements set forth in this directive. Failure to do so, may result in a denial or postponement of consideration for a temporary restricted duty assignment.

#### **B. Restricted Duty Limitations**

1. Restricted Duty Assignments are strictly temporary and limited in duration, normally not to exceed six months in duration. After six months, personnel who are not capable of returning to their original duty shall:
  - a. Present a written request for an extension of temporary restricted duty, with supporting medical documentation (which includes a date by which the employee is reasonably expected to return to full duty status), to the Chief of Police, or designee; or
  - b. If Maximum Medical Improvement (MMI) has been reached, pursue other options as provided by the employment provisions of the City of Alexandria, state, or federal law.

2. Officers on temporary restricted duty are prohibited from engaging in outside employment (including off-duty details) in which they may reasonably be expected to perform law enforcement functions for which they have been determined physically or mentally unable to perform on behalf of the Department and that forms the basis for their temporary restricted duty assignment.
3. In accordance with Directive 4.15, Overtime, employees working in a temporary restricted duty assignment are prohibited from working overtime, unless approved in writing by the Chief of Police and only when the tasks to be completed are within the work restrictions outlined by the treating physician. Approval to work overtime while in a restricted duty assignment will be reviewed on a case by case basis.
4. To ensure that officers who are unable to perform all of the essential functions are not placed in a position which would represent a risk to themselves, other employees or the public, all officers placed into a restricted duty status shall be prohibited from:
  - a. wearing a police officer uniform.
  - b. openly carrying a Department approved weapon.
  - c. operating a marked police vehicle unless said vehicle is clearly marked as being out of service.
  - d. and/or employing police powers, except in exigent circumstances.

Officers in a temporary restricted duty assignment shall only wear properly concealed Department approved firearms if the nature of their restricted duty assignment does not affect the safe handling of said firearm and only if their work restrictions will allow. These restrictions are not a disciplinary action but are intended to relieve the employee of the responsibility of having to take enforcement action when they are physically and/or mentally unable to do so.

5. The employee is responsible to work with the Department, the adjuster, the Risk Management Division, and the case manager in order to achieve a return to work as soon as is medically feasible. The employee's failure to cooperate with the return to work effort may result in a loss of disability benefits.
6. An officer in restricted duty status will take no law enforcement action unless failure to do so would result in serious injury or death to the officer or another person. Where an officer is suffering from psychological or physical limitations that impacts upon their ability to perform their duties, a review of the situation may be completed to determine if police powers should be suspended until such time as it is safe to reinstate those powers.

### **C. Temporary Restricted Duty Assignments**

1. Temporary Restricted Duty Assignments will be coordinated through the Human Resources and Recruitment Section (HRRS) and with the approval of the Assistant Director of the Administration Services Bureau. An employee will not be

placed in a restricted duty assignment without such coordination having taken place.

2. Any employee who qualifies for FMLA leave and who elects to use FMLA leave cannot be forced to accept a restricted duty assignment.
3. In some staff assignments, the employee's regularly assigned job and/or unit may satisfy the restricted duty assignment.
4. Upon receipt of medical documentation, HRRS staff will monitor the nature/extent of an employee's incapacity and/or restrictions, the employee's progress toward recovery, the likelihood or expected date of an employee's return to full duty, requests for accommodations, and the employee's use of leave.
5. Temporary restricted duty assignments may be drawn from a range of technical and administrative areas or any other area where work is available and meets the requirements set forth by the treating physician.
6. For purposes of this directive, employees in a restricted duty status are temporarily not considered to be "essential" due to the inability to perform all essential functions of their position. As such, employees may be converted to an administrative work schedule based on the need of the temporarily assigned unit.
7. Where appropriate temporary restricted duty assignments are unavailable, employees may pursue other forms of medical, disability or family medical leave (FMLA) as provided by the Department, City, state, or federal law.
8. Every effort shall be made to assign employees to positions consistent with their rank and pay classifications. However, where deemed appropriate, employees may be assigned to positions designated for a lower rank or pay classification. Employees thus assigned shall:
  - a. Retain the privileges of their rank but shall answer to the supervisory officer of the unit to which they are assigned regarding work responsibilities and performances; and
  - b. Retain the pay classification and related benefits of the position held prior to their assignment to temporary restricted duty.

#### **D. Requesting Assignments**

1. Notification
  - a. Employees who, for any reason, are not able to complete all the essential functions of their position, with or without a reasonable accommodation, are required to notify their supervisor immediately.
  - b. When an employee informs a supervisor that he/she has been given work restrictions (regardless of duration period) by a treating physician, it is the

responsibility of the supervisor to ensure that the employee submits a completed Return To Work or Physical Capabilities Statement (whichever is applicable) AND the appropriate Medical Essential Functions form. The documentation must indicate the work status, restrictions imposed on the employee, anticipated duration of restrictions, anticipated return to Full duty date and the date for the next medical evaluation.

- c. Requests for a temporary restricted duty assignment will not be considered without supporting medical documentation. Consideration will only be given once all appropriate medical documentation has been received.
- d. The employee, being temporarily unable to complete all essential functions of their position, will be allowed to use their available leave balances, in accordance with City leave policies, to remain out of work (beyond seven calendar days) until such time as a determination can be made on the availability of a temporary restricted duty assignment. HRRS staff will coordinate with affected employees to request approval for, and implement, other leave benefit options if available should the employee have insufficient leave balances available.
- e. If a supervisor observes that an employee is unable to perform the essential functions of his or her position due to a medically certified illness, injury, or disability requiring treatment, the supervisor must provide written documentation to the HRRS Commander, or designee, to include the date on which the observations occurred, the circumstances surrounding the observation, the specific essential functions observed that the employee was not able to complete and the reason for the concern. The HRRS Commander, or designee, in coordination with the Assistant Director of the Administrative Services Bureau, will complete an investigation to determine if sufficient justification exists to support the need for either a temporary administrative or restricted duty assignment recommendation.

## 2. Submitting a Request

- a. The supervisor will complete a memo on behalf of the employee requesting approval for a temporary restricted duty (alternate work) assignment. The memo will be routed to the Chief of Police, through the chain of command and must include HRRS Commander, or designee.
- b. The Assistant Director of Administrative Services, in conjunction with the Assistant Chief, will review and determine if there is a suitable temporary alternate work assignment available and, if so, send a recommendation to the Chief of Police for approval.
- c. The affected employee will be advised of either the approval or denial of a request for temporary restricted duty by a member of their chain of command. If approved, the employee will be advised of when, where, and to whom he or she is to report. The affected employee may contest an assignment by appealing the decision in writing to the Chief of Police.

- i. Consideration for temporary alternate assignments will be made based upon the availability of an assignment; the employee's knowledge, skills, and abilities; and the work restrictions imposed by the treating physician.
3. Documentation Required
  - a. To be considered for approval of a temporary restricted duty assignment, the following medical documentation must be provided and attached to a request memo.
    - i. Worker's Comp Injuries, Illness or Disability
      - a) Completed Physician's Capabilities Statement (PCS)
      - b) Completed Medical Essential Functions Form (MEF)
    - ii. Non-Work Injuries, Illness or Disability
      - a) Completed Physician's Return to Work Statement (RTW)
      - b) Completed Medical Essential Functions Form (MEF)
  - b. All submitted forms MUST be complete and include the following information: duration and prognosis for returning to full duty; specificity pertaining to any/all work restrictions in place; an estimate of when the employee can return to work and in what capacity; and date of the next medical evaluation, if known. Incomplete medical documentation may delay the approval process.
  - c. If there is no temporary assignment available (within the employee's work restrictions), those with approved worker's compensation claims will be placed on disability leave. Employee's with non-work injuries, illnesses or disabilities will be allowed to use their leave balances and any other applicable City benefits (ex. Sick Leave Bank hours, leave donations, LTD, etc.) available while recovering.
4. Evaluation Criteria

To ensure that this policy is administered in an objective, consistent and nondiscriminatory manner, the determination of an employee's fitness and/or ability to perform the full range of essential functions of his or her position must be based on objective job-related criteria. The primary criteria to be used to determine an employee's ability to perform all essential functions of his or her position shall include one or more of the following:

- a. Completed Physician's Return to Work Statement (non-work related) or Physical Capabilities Statement (work related) AND corresponding completed Medical Essential Functions forms containing all necessary information to assess the employee's work status and ability to perform all essential functions of the position.

- b. Results of a medical and/or psychological examination performed by a City physician or a physician approved by the Risk Management Division, with the determination of fitness for duty being based upon the position description and identified essential functions.
- c. An official report, training record, administrative investigation, or performance evaluation.

#### **E. While Working a Temporary Assignment**

##### **1. Supervisor Responsibilities**

- a. Supervisors in units/sections/divisions with restricted duty personnel assigned, are responsible for said restricted duty employee as if the restricted duty employee were regularly assigned to their unit/section/division.
- b. As such, it is the responsibility of the supervisor in the restricted duty assignment to handle the restricted duty employee's time and attendance to include:
  - i. Assigning the work schedule, shift hours, and lunch break rules to the restricted duty employee. Shift hours will be determined based on the needs of the unit/section in which the restricted duty employee has been assigned.
  - ii. Ensure the attendance of the restricted duty employee is satisfactory, approve all leave slips documenting time away from work as appropriate, and enter time and attendance into Kronos.
- c. The supervisor will be responsible for the performance of duties by the restricted employee assigned to their Unit/Section/Division to include:
  - i. Assigning relevant work and providing direction and/or guidance to the restricted duty employee.
  - ii. Reviewing and assessing completed work assignments for accuracy and completeness.
  - iii. Completing evaluations on a restricted duty employee, as applicable.
  - iv. Reporting any issues and/or concerns with the restricted duty employee's performance to the HRRS Commander, or designee, so that the situation and/or assignment can be reassessed.

##### **2. Employee Responsibilities**

- a. The employee approved for a temporary restricted duty assignment will report directly to the designated temporarily assigned supervisor.



- b. Employees on restricted duty are responsible for providing medical documentation to his or her restricted duty-assignment supervisor on a regular basis (at least monthly) or whenever requested to do so by the Department. Supervisors will forward all documentation from physicians/health care providers to HRRS in a timely manner. No medical documents are to be stored in the employee's squad file.
  - c. Employee's will follow all policies and procedures required of the temporarily assigned unit/section.
  - d. Employees with worker's comp related injuries or illnesses will make every attempt to schedule appointments as indicated in A.R. 6-27, Worker's Compensation, to minimize the impact on the temporarily assigned unit if possible. Supervisors are encouraged to work with the employee to allow flexibility to attend medical appointments.
  - e. Employees with a non-service incurred injury or illness shall schedule medical exams, physical therapy, or related treatment on their off-duty time or use approved leave time.
3. Attending Training
    - a. Restricted duty assignment duties must comply with the medical restrictions indicated by the treating physician so as not to cause any undue harm to the employee during recovery. Therefore, all requests to attend training will be reviewed on a case-by-case basis.

#### **F. Return to Full Duty**

1. Prior to returning to a full duty status, the employee must submit updated medical certification to HRRS wherein the treating physician indicates the employee is able complete all the essential functions of their position.
2. Once received, HRRS staff will notify the employee's temporary restricted duty supervisor, the regularly assigned supervisor, and the HRRS Commander, or designee, of the employee's release to full duty status.
3. The date the employee will physically return to the full duty assignment will be coordinated by the restricted and full duty supervisors and will be relayed to HRRS. Additionally, the full duty supervisor will notify HRRS of the returning employee's full duty work schedule and hours.

<b>4.23.04      PREGNANT OFFICERS</b>
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- A. Medical conditions resulting from pregnancy shall be treated in the same manner as any other non-service-related temporary disability. Therefore, pregnant officers are

eligible for temporary restricted duty assignments as available and as appropriate to their physical capabilities and well-being.

- B. Where appropriate temporary restricted duty assignments are unavailable, pregnant officers may pursue other forms of medical, disability or family leave (FMLA) as provided by the Department, City, state, or federal law.
- C. Pregnant officers wishing to enter restricted duty status shall submit physician's medical certification that document:
  - 1. The officer's physical ability to perform the present assigned duties,
  - 2. Any recommended duty restrictions or modifications including temporary restricted duty.
- D. It is the responsibility of the pregnant officer to indicate when she is incapable of performing the essential duties of her position. Pregnancy alone is not grounds or justification for relief from assigned duty. The controlling factors are the ability to perform the essential functions of the position and/or medical intervention needed. The Department is sensitive to a pregnant officer's desire to work and to the need to demonstrate the ability to work safely and effectively.

#### **4.23.05 INTERNAL/PROMOTIONAL PROCESSES**

- A. Employees in an approved restricted duty assignment, who meet all eligibility requirements, will be able to participate in internal or promotional processes. As with all candidates, restricted duty employees will be required to perform all essential functions of the vacant position, with or without a reasonable accommodation.
- B. If a treating physician determines that the restricted duty employee is incapable of performing the essential duties of the vacant position, with or without reasonable accommodations, and the employee will not be capable of performing such duties at the time consistent with business necessity, then the individual will not be considered for the internal vacancy/promotion at that time.
- C. Restricted duty employees on an eligibility list will only be considered for the internal or promotional position at such time as the employee has been re-evaluated by an approved physician indicating that the employee is capable of performing duties required of the position, with or without a reasonable accommodation.

#### **BY AUTHORITY OF:**

**Michael L. Brown**  
**Chief of Police**