



# Ocean City Police Department

## General Order

<b>Subject:</b> Restricted Duty Assignments		<b>No.</b> G.O. 500 H-3	
<b>Rescinds:</b>	<b>Amends:</b> 500 H-3 (08/09/2011)	<b>Related Directive:</b>	
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**I. Purpose:**

This Policy establishes parameters for duty status other than full duty. The Department understands that an employee deemed temporarily unable to perform his/her full duties and responsibilities as outlined in their specific job descriptions due to an injury, illness, or pregnancy can still be productive in a restricted capacity. Restricted duty is a time limited period which allows an employee to work in a temporary position while recovering from a medical condition. A restricted duty assignment will depend upon the needs of the Department at the time of the employee's medical condition and will be limited to situations in which the employee's prognosis indicates he/she will be able to return to a full duty status.

**II. Definitions:**

- A. **Full Duty Status:** When an employee of the Department is able to perform all the duties/responsibilities and essential job functions as outlined in their respective job description with or without accommodations.
- B. **Medical Condition:** An injury, an illness, a pregnancy, and/or a condition for which the employee is under a certified physician's care/treatment and said condition is documented for the purposes of establishing duty status under this policy.
- C. **No-Duty Status:** When an employee of the Department sustains and/or suffers from a serious medical condition, which causes either a temporary or permanent impairment in the employee's ability to perform all the duties/ responsibilities and essential job functions as outlined in their respective job description. An employee's police powers will be suspended when classified in a no-duty status.
- D. **Restricted Duty Status:** When an employee of the Department is unable to perform all of the duties/responsibilities and essential job functions as outlined in their respective job description and the employee has been released by an attending physician to perform duties less vigorous than outlined in the employee's job description. An employee's police powers may be suspended when the employee will be placed in a restricted duty status exceeding two weeks.
- E. **Serious Medical Condition:** A medical condition that results in the loss of, or impairment of, the normal function of any bodily limb or organ that renders the employee unable to safely and effectively perform one or more of the essential functions of his/her job. This includes all psychological conditions and/or illnesses.

**III. Policy:**

All full-time sworn and non-sworn employees must be capable of performing the full duties and responsibilities as outlined in their specific job descriptions. Sworn employees are required to perform tasks specific to law enforcement that include but are not limited to the:

- A. Enforcement of Federal, State and local laws and ordinances;
- B. Physical arrest of criminal offenders;
- C. Subjection to long and/or unusual work hours;
- D. Operation of an emergency vehicle under adverse and/or dangerous conditions;
- E. Qualification and ability to carry a departmental firearm within guidelines; and
- F. Participation and satisfactorily completion of all required training exercises

Personnel who are not able to perform duties as outlined in their respective job descriptions will be categorized in a “No Duty” or “Restricted Duty” status. The Department shall make reasonable efforts consistent with operations and public safety requirements to provide a certain limited number of temporary restricted duty positions available for employees who have a temporary medical condition to allow them to perform administrative tasks as an alternative to taking leave.

This Policy is in addition to and shall not conflict with the Collective Bargaining Agreement applicable to sworn employees and all other policies governing sick leave, FMLA leave, or other procedures pertaining to such leave. All sworn employees shall comply with the requirements for taking leave pursuant to the above referenced contract, policies and procedures.

**IV. No Duty Status:**

An employee meeting the definition of “no duty” status is prohibited from working. The guidelines outlined in the Town of Ocean City’s Personnel Policies Governing Classified Employees dictates the terms of employment during a no duty status specified through medical documentation. The employee shall utilize accrued leave as specified in the Town’s policy.

**V. Restricted Duty - Eligibility and General Applicability:**

- A. In order to be eligible for restricted duty under this Policy, an employee must:
  - 1. Be employed on “full duty status” or on sick leave, FMLA leave, or workman’s compensation at the time the request is made for restricted duty;
  - 2. Have a temporary medical condition;

3. Provide written certification by his/her treating physician as having a medical condition that restricts his/her ability to perform one or more of the essential duties identified in the job description for his/her current position; and
  4. Provide written certification by his/her treating physician that the employee is capable of performing the administrative tasks of the restricted duty position for a minimum of twenty (20) hours per week.
- B. The Department reserves the right to request, at its expense, a second medical opinion by a physician designated by the Department. In the event these opinions conflict, the opinion of a third mutually agreeable physician will be sought at the Department's expense. This third medical opinion will be final and binding.
  - C. Any employee who cannot meet the eligibility criteria is not entitled to a restricted duty position and will utilize such leave as is available under the Town's Personnel Policies and/or the provisions of any applicable Collective Bargaining Agreement.
  - D. Time served in a restricted duty status will count as regular hours worked and will not affect an employee's FMLA credit.

**VI. Restricted Duty – Positions:**

- A. The Department will not guarantee restricted duty assignments nor will it create or maintain permanent restricted duty assignments for its employees.
- B. Nothing in this policy imposes any duty on the Department to create a restricted duty position which matches an employee's specific restrictions or requests.
- C. Restricted duty positions will be comprised of administrative tasks and non-essential employee duties as may be assigned at the discretion of the Department. Unless otherwise designated by the Department, the positions will be at maximum, forty (40) hours per week and will be paid at the same Grade at which the employee was paid at the time he/she requested restricted duty.
- D. Subject to the terms of this Policy, no more than 5 % of the permanent sworn employees shall be placed in restricted duty status at any one period of time. No more than 10 % of the permanent non-sworn employee work force shall be placed in restricted duty status at any one period of time.
- E. Time served in restricted duty positions shall count for all purposes under the Town's pension and other benefit programs.

**VII. Restricted Duty – Assignment:**

- A. The Department may provide a restricted duty position to an employee who meets the eligibility criteria provided:
  - 1. One or more of the designated restricted duty positions is open at the time the employee provides adequate medical documentation establishing qualification for the position.
  - 2. The Department will utilize restricted duty positions for employees who are injured or have an illness in the line-of-duty, and in filling restricted positions may give preference to employees who have medical restrictions as a result of line-of-duty injury. If an employee with medical restrictions that are not attributable to line-of-duty illness or injury currently holds a restricted duty position, the Department may remove that employee from the restricted duty position if an employee with a line-of-duty injury or illness becomes eligible for restricted duty and there are no other restricted duty positions open.
  - 3. Assignment to restricted duty positions will be on a first come, first served basis, as determined by the date the Department receives medical documentation of qualification.
- B. An employee who receives a restricted duty position due to a temporary medical condition that is not caused by or attributable to injury or illness in the line-of-duty shall occupy the position for no more than six (6) months in any rolling 12-month period, provided, however, that the employee who qualifies in restricted duty at the conclusion of six (6) months may request up to an additional three (3) months of restricted duty assignment. The Department shall provide the additional restricted duty if the employee submits medical documentation of qualification and there are no other employees who have qualified for restricted duty but have been deprived that duty because the positions are filled at the time the request for extension is made.
- C. If a restricted duty assignment is not available for an employee with a medical condition sustained outside the line-of-duty, the employee must utilize accrued leave in compliance with the Town of Ocean City's Personnel Policies Governing Classified Employees.

**VIII. Restricted Duty – Pregnancy Related**

- A. Pregnancy is a temporary medical condition, unique to women, which may or may not affect an employee's ability to perform some of the essential job functions of her position. Consistent with the provisions outlined in Section V of this Policy, the Department will establish procedures to modify full-duty assignments and, when needed, provided restricted duty assignments to eligible pregnant sworn employees when they are unable to safely perform the essential job functions of their assignments.

- B. Within thirty (30) days of an employee's knowledge of her pregnancy, the employee shall provide her physician with the essential job tasks of her position so the employee and physician can make an informed decision regarding the risks and benefits of remaining in a full duty status.
- C. If the physician and employee conclude the employee can not perform all the essential job functions due to the pregnancy, the employee shall provide the physician with an explanation of the Department's restricted duty status as outlined in this Policy for the physician's consideration.
- D. The Department will only intervene in a decision regarding duty status when the the employee's pregnancy hampers her effective job performance or creates an undue safety risk to the employee, co-workers, and/or the public. If the Department determines the employee's condition unreasonably interferes with her abilities to perform the essential job functions, the employee will be directed to seek approval from her physician to engage in restricted duty as outlined in this Policy.
- E. If the employee becomes unable to perform the functions associated with her restricted duty assignment due to the pregnancy, the Department will require the employee to take accrued leave, in compliance with the FMLA and Town's leave policy. This does not apply to the occasional use of sick leave as a result of the pregnancy, as it would in any other use of sick leave for a medical condition/illness.
- F. An employee serving in a restricted duty status under this section is exempt from the provisions outlined in Section VI - D and Section VII – A
- G. Before returning to a full duty status after a pregnancy:
  - 1. The employee must provide documentation from her physician that the employee is capable of performing all the essential job functions.
  - 2. The Department must assure all previously exempted training provisions are accomplished, i.e. firearms qualifications.
- H. The employee shall provide the Department with any special needs associated with her recent pregnancy which may include accommodations for lactation, use of a refrigerator, and temporary special scheduling.

**IX. Responsibilities:**

- A. Employee
  - 1. An employee who seeks to be considered for restricted duty will provide a written medical "note" from the treating physician along with the Department's Request for Restricted Duty Form to the Support Services Commander. This documentation must identify the employee's specific medical restrictions and indicate that the employee is unable to

perform one or more of the essential duties of his/her current position. The documentation also must state that the employee is capable of performing the administrative duties of the restricted position for the minimum number of hours required under this Policy, and provide the date of the employee's next medical evaluation and state when return to full duty is expected.

2. An employee on workman's compensation who has been deemed suitable by a physician to perform restricted duty tasks shall be assigned to restricted duty within the guidelines set by this Policy and Federal/State regulations pertaining to Workman's compensation and FMLA.
3. An employee who qualifies for FMLA leave and who elects to take FMLA leave will not be required to accept a restricted duty position.
4. An employee placed in a restricted duty position is responsible for providing medical documentation establishing his/her continuing qualification for restricted duty to the Support Services Commander on a regular basis or whenever requested by the Department.
5. If the employee's medical condition is not attributable to injury or illness in the line of duty and the employee requires physical therapy or a medical evaluation during work hours, the employee will be charged leave in accordance with the Town's leave policies. In cases of line of duty injuries or illnesses, the Town's Risk Manager will coordinate the frequency of medical evaluations.
6. Employees shall abide by the regulations outlined in the Town of Ocean City's Personnel Policies Governing Classified Employees regarding the use of sick leave.

B. Department

1. The Support Services Commander shall be the Department's coordinator of all restricted duty requests and assignments. Employees requesting restricted duty must submit their requests to this commander.
2. The commander will evaluate the needs of the Department at that particular time and determine whether there is an open restricted duty position that fits within the employee's medical restrictions.
3. Once a determination is made that a restricted duty position is available, the Support Services Commanders shall coordinate efforts between the affected employee, the commander of the affected employee, the Police Human Resource Coordinator, the Town's Department of Human Resources, and the Town's Risk Manager (if applicable).

4. The Support Services Commander will maintain an effective and efficient medical leave system that will closely monitor the employee's medical status to assist the employee in returning to a "full duty" status as quickly as possible.

**X. Restricted Duty Assignment Guidelines:**

A sworn employee placed in a restricted duty status shall:

- A. Wear the Department Class "D" Training Utility Uniform.
- B. Not wear/carry/display a departmental firearm, badge, or identification while the employee's police powers are suspended.
- C. Only take law enforcement action when failure to do so would result in serious injury or death to the officer or another person.
- D. Not operate a marked police vehicle, participate in the Saturation Patrol Program or other authorized take-home vehicle program.
- E. Not engage in police-related secondary employment; nor general secondary employment that would:
  1. Conflict with the officer's ability to perform restricted duty assignments;
  2. Adversely affect the officer's return to full duty status; or
  3. Involve work that is inconsistent with the medical documentation establishing the employee's qualification under this Policy.
- F. Engage in training exercises that do not require physical exertion such as firearms defensive tactics, and/or defensive driving.

**XI. Relief from Duty**

- A. A sworn employee who is unable to perform all of the essential job functions that constitute law enforcement duties because of a serious medical condition or a medical condition that limits his/her abilities for a period in excess of two weeks may have his/her police powers suspended by the Chief of Police.
- B. This suspension shall be lifted once a medical clearance by a physician and/or a psychological service provider establishes an acceptable fitness for duty that verifies the employee is capable to perform full-duty status functions.
- C. Suspension of police powers and assignment to a no-duty or restricted duty status will be administered as a non-punitive measure with no loss of pay or benefits, and is not subject to the procedures of the law Enforcement Officers Bill of Rights (L.E.O.B.R.).

- D. A sworn employee serving in a no-duty or restricted duty status for medical reasons shall coordinate his/her status and assignment with the Support Services Commander.

**XII. Promotions:**

- A. A sworn employee in a no-duty status is not eligible to participate in a promotional process.
- B. A sworn employee in a restricted duty status may participate in a promotional process offered by the Department.
- C. A sworn employee in a restricted duty or no-duty status is not eligible for promotion until return to full-duty status
- D. A sworn employee passed over for promotion while in a restricted duty or no-duty status will be reinstated to his/her respective position on the applicable eligibility list for which he/she competed upon return to full-duty status.

**XIII. Appendix:**

- A. Request for Restricted Duty Form