

**ARTICLE 23 - SICK LEAVE**

**Section 1. Definitions.**

A. For purposes of this Article, the following definitions shall be used:

1. **"undocumented absence"** shall mean any absence due to sick leave without a physician's certificate, regardless of duration during any working day. When counting such absences, all or part of each working day or shift shall count as a separate absence.
2. **"physician's certificate"** shall mean a note provided by a physician licensed to practice medicine which states that s/he has examined the employee and that the employee was unable to work due to illness. It is the parties intent that the purpose of the information to be provided by the physician's certificate is to document the physician's determination that the employee has a bona fide illness, injury, or disability, which has existed for the entire period of the leave being claimed.
3. **"physician licensed..."** shall mean and include medical doctors (M.D.), osteopaths (D.O.) chiropractors (D.C.) and dentists (D.D.S.) who have met applicable licensing requirements, as the context of the condition or illness requires.
4. **"voluntary overtime"** shall mean overtime which is neither holdover time nor when an employee is ordered to work overtime.

**Section 2. Circumstances Requiring Physician's Certificate.**

Throughout this Section, "working day" shall mean 24 hours for a 24-hour shift employee and "working day" shall mean 16 or 20 hours for an 8-hour or 10-hour employee respectively.

A. All employees shall be required to submit a physician's certificate under the following circumstances:

1. All twenty-four (24) hour shift e Employees using more than two (2) consecutive working days of sick leave shall be required to provide a physician's certificate upon their return to work. All other employees using more than three (3) consecutive working days of sick leave shall be required to provide a physician's certificate. The physician's certificate must be provided electronically or in person no later than the beginning of their 3<sup>rd</sup> working day stating their expected return to work. The Union and the Department shall develop a mutually acceptable portal to provide the above-referenced electronic notification.
2. All employees who use sick leave by leaving during a shift and returning during that shift or by reporting for duty after the shift begins shall be required to provide a physician's certificate upon their return to work.

3. All employees who utilize sick leave in conjunction with ~~her/his/her~~ their scheduled work day or work shift immediately preceding or following any other form of leave, excluding Bereavement Leave, (i.e. annual leave, military leave, administrative leave, leave without pay) shall be required to provide a physician's certificate upon their return to work. Undocumented sick leave and military leave may not be taken together during the same shift.
4. All employees who utilize sick leave on the following holidays shall be required to provide a physician's certificate upon their return to work: New Year's Day, Independence Day, Thanksgiving Day, Christmas Eve, Christmas Day, New Year's Eve.
- ~~5. Once an employee has had six (6) undocumented absences in a fiscal year, s/he is required to provide a physician's certificate for any absence thereafter for the remainder of the year unless the employee has sick leave accrued but unused in an amount equal to or exceeding 50% of the total amount of sick leave s/he has accrued during her/his service in the Fire Department.~~

**~~Section 3. — Timeliness of Issuance of Physician's Certificate.~~**

- ~~A. A physician's certificate must have been issued within 24 hours of the date on which the obligation arises.~~
- ~~B. If an employee is not successful in obtaining a physician's certificate issued within 24 hours from the time the obligation arises, the employee may elect to be treated under either of the following provisions. The election shall be made upon return to work, at the time the physician's certificate is provided:~~
  - ~~1. Forfeiture of Annual or Holiday Leave~~
    - ~~a. In the event that the physician's certificate is not issued within 24 hours, as provided herein, each duty hour after the obligation arises — until the time of issuance, shall be forfeited from either accumulated vacation time, or holiday leave equal to the number of hours.~~
    - ~~b. Failure to provide such documentation shall not be cause for discipline, other than loss of paid leave, unless it can be shown that intentional misrepresentation has occurred.~~
    - ~~b. It is understood and agreed to that annual or holiday leave that is forfeited under this section may not be used as, or in lieu of, scheduled leave. Any employee who intentionally calls in sick for the purpose of taking unscheduled leave is in violation of this provision.~~
  - ~~2. Verification of Attempt to See Physician Within 24 Hours~~

- ~~a. If an employee attempts to see a physician within 24 hours, and is unable to do so, s/he may provide documentation from a licensed medical service provider to that effect to obtain approved leave.~~
- ~~b. In the event of a subsequent sick leave request during the same fiscal year that is not accompanied by a physician's certificate issued within 24 hours, the employee shall lose sick leave credit for both of the absences, which shall not qualify as sick leave, but shall be forfeited from either accumulated vacation time, or holiday leave equal to the number of hours which the employee was absent. If the period of absence exceeds one shift or one day, the leave forfeited shall be twice the shorter period of time.~~
- ~~c. Failure to provide such documentation shall not be cause for discipline, other than loss of paid leave, unless it is shown that intentional misrepresentation has occurred.~~

**Section 3 4. Additional Doctor's Certification and Confidentiality of Medical Information.**

- A. Upon request by the Chief, employees shall provide additional (in addition to a physician's certificate) doctor's certification describing the nature of the illness which certification shall be mailed or delivered in a sealed envelope marked "confidential" to the Chief.
- B. The City shall not release any information concerning any condition or diagnosis, or any associated medical information or test result that is non-discloseable or confidential under state or federal law which may be contained on the physician's certificate to any person or entity without the written consent of the employee, or an order by a court of competent jurisdiction.
- C. If the employee seeks confidential treatment of any matter disclosed by the physician, these certificates shall be delivered or mailed, in a sealed envelope, marked "Medical Information - Confidential" directly to the appropriate office at Fire Administration.
- D. No employee or physician shall be expected to provide any information about conditions which are privileged or confidential by law, or which involve a clearly unwarranted invasion of personal privacy. This would include, but is not limited to STD'S or HIV. If a diagnosis or treatment relates to such conditions, the physician may complete this form with a conclusion that the patient's condition prevented work during the specified time period.

**Section 5. — Loss of Voluntary Overtime.**

- A. ~~After two undocumented absences during any fiscal year, an employee will be ineligible for one (1) voluntary overtime opportunity, which loss shall occur either within two (2) shifts or the next opportunity. For each undocumented absence thereafter, the employee shall lose another overtime opportunity in the same manner.~~
- B. ~~After six (6) undocumented absences during the fiscal year, the Fire Chief has the right to deny eligibility for voluntary overtime for sixty (60) days, on a reasonable basis. Written guidelines for implementing this provision shall be established and disseminated within the department. The Fire Chief may revise these guidelines from time to time.~~

**Section 6. Other Provisions.**

- A. After an employee who is eligible for regular retirement has an absence in excess of thirty (30) consecutive working days, the Chief has the right to require a physician's certificate and may require the employee to submit to a Fitness for Duty Examination.
- B. ~~The Union recognizes the City's existing right to contact or attempt to contact an employee either in person or by telephone in a reasonable manner while s/he is on sick leave. Failure of the employee to be at her/his residence, at a location pre-coordinated with her/him-Supervisor, or attending medical treatment shall be grounds for disciplinary action in accordance with existing rules and regulations. The Chief will establish a procedure for discretionary exemptions from this rule and the provisions of Section 2 for individuals with long term illnesses, injuries or extended hospitalization.~~
- B. The Union recognizes the City's existing right to enforce a policy that the provision of fraudulent medical documentation or deliberately erroneous statements in connection with the provisions of this article shall be grounds for disciplinary action in accordance with the rules and regulations.
- C. Nothing in this Article shall be construed to limit in any fashion the right of the Chief to enforce rules and regulations or administrative policies that are not in conflict with this Agreement or State Law.

**Section 7. Sick Leave Buy Back.**

~~Beginning January 2014 the~~ The City will buy back at the Fire Fighter’s discretion up to ten (10) accrued sick leave days per year on a one-for-one basis at the Fire Fighter’s regular rate of pay, provided that the employee requests the buyback in writing on a form provided by the City by the end of the last business day in January; and the employee has a balance at that time of not less than seven (7) months worth of sick leave. Sick Leave buy back will be paid in the first pay period of May of the same year. The total amount available for Sick Leave buy back under this Section shall not exceed **\$1.9** million for ~~the first~~ fiscal year 2014, and shall be capped to increase 5% per fiscal year thereafter. Sick Leave buy back shall be paid based on seniority in the Department.

Date: \_\_\_\_\_

\_\_\_\_\_  
For the City

\_\_\_\_\_  
For the Association