



## Temporary Modified Duty-Sworn Personnel

**SUBJECT:** Temporary Modified Duty-Sworn Personnel

Effective Date | August 15, 2022    Revised Date | n/a

Policy Number | 101

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### **PURPOSE AND SCOPE**

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules, current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

### **POLICY**

Subject to operational considerations, the City of Oakley Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

### **GENERAL CONSIDERATIONS**

No position in the City of Oakley Police Department shall be created or maintained as a modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment. The Department may also temporarily assign an employee to another department within the City, if there are not limited duty assignments available within the Department.



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The Chief or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

Modified or Light Duty assignments do not normally extend beyond six (6) months from the time the employee begins his or her modified or light duty work assignment.

Temporary modified or light duty assignments will end should a physician provide a determination that the employee has reached maximum medical improvement.

However, modified or light duty assignments may be extended upon approval by the Chief of Police as needed, at 30 calendar day intervals if working is supporting the employee to recover and the employee continues to medically improve as evidenced by reduced work restrictions. If the employee has not sufficiently recovered to return to his or her position within this period, then a leave of absence will be considered. If a leave is no longer reasonable to provide, then reasonable accommodation discussions will continue and may involve an exploration of alternative work placement.

### **PROCEDURE**

The Operations Lieutenant will be responsible for the oversight of the Modified Duty Program. Direct supervision and coordination will be handled by the Operations Lieutenant. The Operations Lieutenant will coordinate the modified duty assignments based on input or request from Command Staff and Supervisors of the Police Department.

Employees qualified for a temporary modified-duty assignment shall submit a certification from the treating medical professional to the Operations Lieutenant as well as the Human Resources Department. The City may require that the certification include:

- a) An assessment of the nature and probable duration of the illness or injury.
- b) The prognosis for recovery, including whether full duty is expected within 6 months, with or without reasonable accommodation.
- c) The nature and scope of limitations and/or work restrictions.
- d) A statement regarding any required workplace accommodations, mobility aids or medical devices.



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- e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Operations Lieutenant will make a recommendation through the chain of command to the Chief regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief or the authorized designee shall confer with the Department of Human Resources or the City Labor Attorney as appropriate.

It is incumbent upon Command Staff to continually communicate the priorities to the Operations Lieutenant to ensure the need for modified duty assignments is current.

### **ACCOUNTABILITY**

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with the Operations Lieutenant. All employees working modified duty will be required to complete a modified duty agreement.

### **EMPLOYEE RESPONSIBILITIES**

- a) The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:
  - a) Maintain a high level of performance while assigned to temporary modified duty.
  - b) Employees assigned to modified duty shall adhere to their specific limitations both on and off-duty.
  - c) Communicating and coordinating any required medical and physical therapy appointments in advance with their assigned supervisor.
  - d) Promptly notifying the Operations Lieutenant and Human Resources of any change in restrictions or limitations after each appointment with their treating medical professionals.



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- e) Communicating status updates to the Operations Lieutenant and Human Resources after medical appointments and when updated medical documentation is provided.

### **MODIFIED DUTY ATTIRE**

All employees assigned to modified duty will wear department issued polo shirts with slacks or BDU style pants in the color of black, blue or khaki.

### **OPERATIONS LIEUTENANT RESPONSIBILITIES**

The Operations Lieutenant shall monitor and manage the work schedule of those assigned to temporary modified duty in consultation with Human Resources.

The responsibilities of the Operations Lieutenant shall include, but not be limited to:

- a) Advise an employee who is assigned to temporary modified duty whom they report to.
- b) Periodically apprising the Chief and Human Resources of the status and performance of employees assigned to temporary modified duty.
- c) Notifying the Chief and Human Resources and ensuring that the required documentation facilitating a return to regular duty is received from the employee.
- d) Ensuring that employees returning to regular duty have completed any required training and certification.

### **SCHEDULE**

Employees assigned to modified duty (due to either workers compensation or illness or injury) will generally work one of the following assigned schedules:

- a)     Investigations



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- b) Report Taker (assignments will not be applicable to Red or Green Team shifts)

The Department will only support a total of four (4) temporary modified duty assignments at any given time. In any assignment, employees may be assigned other duties related to the City's needs during their assigned shift. As discussed above, temporary modified duty assignments are a management prerogative and not an employee right and assignments will be made at the sole discretion of the City based on the needs of the department. Administrative positions will be evaluated separately and will not be included in the assignments stated above.

Should the needs of the department change at any time, shifts and schedules may be changed with at least a fourteen (14) day notice.

While assigned to a modified duty schedule an employee is prohibited from working overtime without prior approval from the Human Resources Director at the recommendation of the Police Chief.

### **DUTY WEAPON**

Officers assigned to modified duty may carry their duty weapon unless their limitations preclude them from carrying or safely operating their weapon. All limitations will be reviewed by the Operations Lieutenant to ensure the employee can safely carry their duty weapon.

### **MEDICAL EXAMINATIONS**

Prior to returning to regular duty, employees shall be required to provide certification from their treating medical professional stating that they are medically cleared to perform the essential functions of their jobs, with or without reasonable accommodation.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy and applicable law.



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### **PREGNANCY**

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth, or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). Nothing in this policy limits a pregnant employee's right to a temporary modified-duty assignment if required under Government Code § 12945.

#### **NOTIFICATION**

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City's personnel rules and regulations regarding family and medical care leave.

### **MAINTENANCE OF CERTIFICATION AND TRAINING**

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions.

While assigned to a modified duty schedule an employee is prohibited from attending training outside of the City of Oakley without prior approval from the Human Resources Director at the recommendation of the Police Chief.

It will be the employee's responsibility to inform their supervisor if there is any inability to maintain any certification, training or qualifications.



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### ACKNOWLEDGEMENT OF RECEIPT

My signature below acknowledges that I have received a copy of the City of Oakley Temporary Modified Duty-Sworn Personnel, Policy Number 101. I understand and agree that it is my responsibility to read and familiarize myself with the provisions of this document, to follow the established guidelines and to adhere to the policy as written.

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**Employee Signature**

**Employee Name**

**Date**