

# CHARLOTTESVILLE POLICE DEPARTMENT



Note: This directive is for internal use only and does not enlarge an officer’s liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by the Charlottesville Police Department and then only in a non-judicial administrative setting.

Type of Directive: GENERAL ORDER	Number: 01-03
<b>USE OF SICK LEAVE</b>	Date: May 4, 2020
VLEPSC Number: Non-Standard	Manual Number: 517.10
	Effective Date: May 4, 2020
Authorization: Chief R.M. Brackney <i>Rm Brackney</i>	Follow-up Date: As Needed

## I. POLICY

The Charlottesville Police Department views sick leave as a benefit for employees to use if they or a member of their immediate family become ill or injured. It is the policy of this Department to monitor sick leave usage. Inappropriate use of sick leave will not be tolerated, since it adversely affects other employees as well as the efficiency of the Department’s operations. Employees who abuse sick leave will be subject to disciplinary action, up to and including termination.

## II. PURPOSE

The purpose of this policy is to clarify how and when sick leave may legitimately be used and to prescribe consequences for employees who abuse it.

## III. DEFINITIONS

- A. FMLA: means and refers to the provisions of the federal Family and Medical Leave Act, which requires the City to provide twelve (12) weeks of unpaid leave for certain eligible employees who have serious health conditions or who need to care for a seriously-ill spouse, son, daughter, or parent.
- B. Sick Leave Absence: refers to time away from work taken by an employee due to illness or a health condition that prevents the employee from performing the essential functions of their job, or due to medical or health care appointments.
- C. Sick Leave Abuse: consists of an absence that:
  - 1. Is not covered by FMLA;
  - 2. has not been authorized in accordance with applicable City policies; and,
  - 3. falls within one or more of the following categories:
    - a. The use of 80 hours or more of undocumented sick leave within the previous 12 months;
    - b. seven (7) separate unapproved undocumented sick leave absences in a 12-month period; and

c. a pattern or frequency of sick leave usage indicating that it is reasonably likely that such leave is not being used for its intended purpose.

#### IV. PROCEDURE

- A. Supervisors are responsible for monitoring sick leave usage of their immediate employees, and for collecting leave slips from those employees for each absence from work.
- B. Department supervisory personnel who are considering making a determination that an employee has engaged in sick leave abuse shall consult with the Director of Human Resources prior to taking any action.
- C. The sick leave allowance of an employee may be used for the following:
  - 1. Personal sick leave: An illness, injury other health condition incapacitating the employee and preventing the employee from performing assigned duties, doctor or dental appointments during working hours, and exposure to contagious disease such that the employee's presence on the job would jeopardize the health of co-workers or the public.
  - 2. Family sick leave: An illness, injury or other health condition in the immediate family, including doctor and dental appointments, requiring the attendance of the employee.
- D. An employee shall complete a leave report for each sick leave absence, as follows:
  - 1. When the need for a sick leave absence is foreseeable, the employee shall complete the leave form by the Department in advance of the absence. The employee shall submit such leave form as soon as the need for the sick leave is identified. Failure to comply with this requirement may result in denial of requested sick leave.
  - 2. When the need for a sick leave absence was not foreseeable, the employee shall contact a supervisor from their Bureau or work group prior to the commencement of their next scheduled shift to report the need for the sick leave, and the date/time of their anticipated return. In cases where a sick leave absence is the result of an emergency situation that prevents the employee from communicating with a Bureau or work group supervisor prior to the scheduled shift, the employee shall contact a Bureau or work group supervisor as soon as possible. The employee shall then complete a leave report form immediately (e.g., the same day) upon returning to duty. Failure to comply with these requirements may result in denial of requested sick leave.
  - 3. Employees shall contact a supervisor from their Bureau or work group each workday and notify them of their status and when they anticipate returning to work.
  - 4. Upon receiving a leave form, the Department will review the form and approve or deny the request to charge the employee's sick leave account. Sick leave is granted at the discretion of the Department and may be refused if not properly justified in the opinion of the Chief of Police. An employee should not

assume that sick leave will be approved and charged simply because he has an accumulated sick leave balance. Sick leave is a benefit and not entitlement.

E. Documentation of Need for Sick Leave shall be provided by an employee as follows:

1. When an employee has been away from work on sick leave for a consecutive total of 40 work hours, then before returning to work the employee must obtain a written statement from their attending physician or health care provider certifying that the employee is fit to return to their regular duties. Where applicable, the employee will be informed by their supervisor that the leave will be counted toward their FMLA eligibility.

2. Prior to a foreseen sick leave absence of 40 consecutive work hours, an employee's supervisor may require a physician's or health care provider's written statement, as described above, if in the Department's judgment this information is necessary.

F. Restricted Sick Leave Status

1. Any employee meeting the criteria of sick leave abuse shall be placed on restricted leave status. Thereafter, no non-FMLA-qualified sick leave shall be approved unless the employee submits a physician's statement verifying that, for each day of the proposed sick leave absence, the employee was unable to perform their assigned duties, was suffering from a contagious disease such that their presence on the job would jeopardize the health or safety of their co-workers or the public, or was required to care for a member of their immediate family. If the employee fails to provide such documentation, sick leave will be refused and the time away from work will be charged to the employee's accumulated vacation leave or will be categorized and treated, for payroll and disciplinary purposes, as absence without leave (without pay). A supervisor shall consult with the Director of Human Resources prior to taking any such action.

2. An employee who has been placed on restricted sick leave status will remain on that status until:

a. They have fewer than 80 hours attributable to sick leave (approved or unapproved; family and personal sick leave, combined) for a twelve-month period, excluding FMLA-qualified leave, or

b. The employee's pattern of sick leave usage improves to the satisfaction of their supervisor.

G. Performance Evaluation

1. Sick leave abuse shall be a factor considered in performance evaluations. Supervisors will be required to document, as part of an employee's performance evaluation, that any abuse of sick leave has been discussed and that the employee has been made aware of the consequences of failure to improve their attendance at work.

2. Restricted sick leave status will also be stated in performance evaluations.

3. Merit increases may be denied to an employee who has been placed on restricted sick leave status.

#### H. Disciplinary Action

In addition to being placed on restricted leave status, employees who abuse sick leave may be subject to disciplinary action in accordance with Police Department Policy and the City's Personnel Policies and Procedures.

#### I. Implementation

1. During the initial implementation of this policy, employees who have used sick leave in a manner that brings them within the definition of Sick Leave Abuse as of the effective date of this policy will be warned that they are in violation of this policy and will be placed on restricted sick leave status if any additional inappropriate sick leave use occurs.
2. Employees who have been placed on restricted leave status under policies in place prior to the implementation of this policy will remain on restricted status until released by their supervisor.
3. Department supervisors shall work closely with the City's Director of Human Resources, to monitor report and categorize the nature of an employee's absences so that this policy may be implemented in accordance with federal and state laws pertaining to absences due to health conditions.