

DOUGLAS COUNTY SHERIFF'S OFFICE		Policy and Procedure
Employee Leave and Compensation		P&P-L-110
Modified Duty		
Effective Date: 07-20-22 Supersedes: 04-01-19	Approval: Sheriff	Number of Pages: 6
References: PP-L-100	Reevaluation Date: Annually	Standards:

I. POLICY

It is the policy of the Douglas County Sheriff's Office to make available a limited number of full-time modified duty assignments, provided such modified duty assignments are necessary in relation to the operational needs of the DCSO and provided that all eligibility requirements are met. These modified duty opportunities will be for the exclusive assignment of DCSO employees who remain in good standing with the Office and who are suffering from a medical condition, such that they are temporarily unable to perform all the essential duties of their current position. It is the employee's responsibility to request modified duty.

II. PROCEDURE

When an employee is unable to complete the essential job functions of their current assigned job due to a temporary medical condition (regardless of whether it occurred on-duty or off-duty), they must request to work a modified duty assignment provided the following eligibility criteria are met:

- A. In the event of a non-work related, temporary medical condition, the employee will be eligible to apply for a modified duty assignment on the first day of the month following 30 calendar days of employment. In the event of a work-related medical condition, these time constraints will be waived.
- B. A completed [Application for Modified Duty Assignment](#) form must be submitted in accordance with the process outlined in this Policy.
- C. A certified medical provider (treating physician) must certify that the employee is medically unable to perform the duties of their current job description. It is the responsibility of the employee to provide their physician with a copy of their current job description, which can be found on PowerDMS.
- D. Additionally, the employee is responsible for obtaining all applicable medical/physical restrictions from their treating physician (refer to the [Application for Modified Duty Assignment](#) form).
- E. If there are no modified duty positions available at the time of application, the employee will be placed on a qualified leave of absence until such time that a modified duty position becomes available, for which the employee meets the qualifications, or the employee is released for full duty.

In determining modified duty assignments, primary consideration will be given to positions within the employee's assigned division, then to equivalent positions within other divisions and, lastly, to other positions. The determination of number of modified duty positions and assignments will be solely at the discretion of the Sheriff and will be based on operational and Office needs. All modified duty assignments will be Monday through Friday, 5/8s in the division assigned unless, assigned to the employee's shift team in a modified role.

All modified duty calculations, either worker's comp related or for personal injury, will use the same procedures listed below:

- Modified duty calculations **will** stop when an employee is on an **approved** county medical leave, to include FMLA, Non-FMLA and County Medical Leave, while assigned to a modified duty assignment.
- Modified duty calculations **will** stop when an employee takes their 32 hours for bereavement leave as defined in policy (*P&P-L-101 – All Other Leave (Excludes Holiday, Sick, Vacation)*).
- Modified duty calculations **will not** stop when an employee uses approved sick days for conditions not related to the modified duty assignment.
- Modified duty calculations **will not** stop when an employee takes approved vacation leave while assigned to a modified duty assignment.
- Modified duty calculations **will not** stop when an employee takes approved personal leave for an unrelated situation while assigned to a modified duty assignment.
- Modified duty calculations **will not** stop when an employee is absent for court leave, military leave, etc (list may not be all inclusive).

Modified Duty for Worker's Comp Injury:

Employees can work in a modified duty assignment for up to a maximum of 1600 hours in a rolling calendar year, *per worker's comp injury occurrence*. If at the end of the 1600 hours if the employee is still unable to be released to full duty, they may be placed on a qualified leave of absence in accordance with County policy. The period of time during which an employee is working in a modified duty assignment will not be counted for purposes of FMLA tracking. While working modified duty, absences related to an employee's illness / injury do count towards FMLA. If an employee is on FTO and/or probation, the time during which they are on a modified duty assignment, does not count towards their probation or FTO status.

When an employee is cleared for modified duty by a worker's compensation doctor the employee must return to work and apply for a modified duty status. The member cannot stay at home once the worker's compensation doctor has decided they can return to work in a modified duty status or return to a full duty status unless the modified duty restrictions do not meet the needs of the Office. If an employee is not eligible for consideration or chooses not to request a modified duty assignment or declines an assignment, they will be required to follow the DCSO and County leave policies (see

[P&P-L-100 Holiday, Vacation, Sick Time & P&P-L-106 Leave of Absence \(FMLA, Medical Leave Status, County Medical Leave and Personal Leave\).](#)

Modified Duty for Personal Injury / Condition:

Employees may not be eligible for a modified duty assignment unless their temporary medical condition would exceed forty hours of leave. Employees can work in a modified duty assignment for up to a maximum of 1600 hours in a rolling calendar year, *to include all separate occurrences within that time frame*. If at the end of the 1600 hours if the employee is still unable to be released to full duty, they may be placed on a qualified leave of absence in accordance with County policy. The period of time during which an employee is working in a modified duty assignment will not be counted for purposes of FMLA tracking. While working modified duty, absences related to an employee's illness / injury do count towards FMLA. If an employee is on FTO and/or probation, the time during which they are on a modified duty assignment, does not count towards their probation or FTO status.

An employee will not be required to accept or apply for a modified duty assignment if the injury or illness is not work related. If an employee is not eligible for consideration or chooses not to request a modified duty assignment or declines an assignment, they will be required to follow the DCSO and County leave policies (see [P&P-L-100 Holiday, Vacation, Sick Time & P&P-L-106 Leave of Absence \(FMLA, Medical Leave Status, County Medical Leave and Personal Leave\).](#)

III. ESSENTIAL JOB FUNCTIONS & APPLICATION PROCESS

When an employee can no longer perform all of the essential job functions due to a temporary medical condition, they must notify their supervisor according to Worker's Compensation, FMLA, and other applicable DCSO / county policies. If all eligibility requirements are met and the employee wants to be considered for a modified duty assignment, they must complete the [Application for Modified Duty Assignment](#) form and send it to Professional Standards for review.

The application for modified duty requires the employee to provide medical information so that the modified duty assignment does not unreasonably place the employee at risk of exacerbating their temporary medical condition. An employee is required to have their treating physician complete the applicable parts of the [Application for Modified Duty Assignment](#) form. Additionally, at the time of application, the employee may be asked to sign a Release of Medical Information Waiver form so that Professional Standards can verify the temporary medical condition throughout the time the employee is on modified duty status.

Once the forms have been received by Professional Standards, they will contact the employee's division captain to determine if the employee is in good standing, if a modified duty position exists, what duty the employee will be assigned, and to verify that the employee is fully able to meet both the job qualifications and physical requirements based on physician-provided information. If such a modified duty position is available, Professional Standards will clear the assignment with the chief deputy and then may offer

the employee such position in writing. The employee can either accept or decline the assignment. If the employee declines the assignment, they will need to utilize appropriate leave for their absence from work. An employee's previously held position may be filled once FMLA has been exhausted. If an employee is not eligible for FMLA benefits, then their position may be filled if they are unable to be released for full duty.

If a supervisor receives a request for a modified duty assignment outside normal work hours, the supervisor shall review the paperwork provided to them from the employee's physician, detailing the employee's restrictions. Upon review, the supervisor shall contact the captain of the division to discuss a temporary approved modified duty assignment. The temporary modified duty assignment shall be granted for no more than 20 hours, before the appropriate modified duty paperwork is turned in to Professional Standards for processing. Any temporary modified duty assignments that are approved by the division captain outside normal work hours, shall be communicated to the Captain of Professional Standards.

The employee will be informed via email by the personnel coordinator, of any restrictions or expectations of the Office and will be instructed on how to fill out their timesheet. The timesheet will have "modified duty" in the notes field for each day for all modified duty hours worked. The employee will submit their timesheet to the supervisor they are assigned to while on modified duty. That supervisor will in turn submit the timesheet to the personnel coordinator for verification.

Generally, employees who are assigned to modified duty positions will have no direct physical contact with inmates or be assigned to a physical enforcement capacity.

If an employee is required to attend medical appointments while they are on modified duty as a result of their personal illness or injury, the absence will count towards FMLA. If it is a qualified worker's compensation injury, the employee will use worker's comp time (if this bank of time is still available) to attend appointments and the absence will count towards FMLA.

Employees on modified duty will wear appropriate business attire while on modified duty or training uniform consisting of a polo shirt and tactical pants. If a commissioned member is able to use their weapon in a safe and efficient manner, they may carry their weapon (employee may be tested to verify ability).

An employee will be required to provide updated restrictions to the personnel coordinator, after medical appointments, for both worker's comp injury and personal injuries / conditions. The personnel coordinator will complete new modified duty paperwork if the employee's restrictions have changed.

In all cases of leave for temporary medical condition, Douglas County reserves the right to request a second medical opinion at Douglas County's expense. Professional Standards may consult with Douglas County Human Resources at any time to assist in determining an employee's eligibility. Additionally, should the DCSO determine at any time that the

operational needs of the office no longer enable a modified duty position to exist, the employee may be removed from the modified duty assignment and placed on a qualified leave.

IV. MODIFIED DUTY COUPLED WITH OTHER LEAVE

While an employee is on modified duty the time on modified duty does not count towards FMLA time unless they are absent due to their illness or injury. If an employee has exhausted FMLA and modified duty time and is still unable to complete the essential job functions of their position then they may be eligible for Medical Leave Status, provided they meet all the eligibility requirements of the Medical Leave Status Policy. During this medical leave status period, the employee remains insured on their elected benefits and eligible for the County contribution if premiums are paid in full monthly. For the complete Medical Leave Status policy, including details regarding general exclusions, medical leave certification requirements, return to work and/or expiration of Medical Leave Status and pay while on Medical Leave Status, please see the Douglas County policy or contact the Human Resources Department.

V. RETURN TO DUTY

If released to full duty within 1600 hours of a modified duty assignment, the employee will return to the same or equivalent position. If an employee's previous position has been filled during the employee's absence and there is a vacant position in the same or similar job title, the employee may be reinstated into that vacant position. It is the responsibility of commissioned personnel to become current on all required training (e.g.; ACT, driving and/or range qualifications) once they are released to full duty.

The employee will provide medical release documentation and receive approval to return to their regular assignment. The personnel coordinator will contact the training unit, letting them know that the employee has been returned to full duty. The training unit will evaluate the training required to return to work.

VI. EMPLOYEE IS UNABLE TO RETURN TO FULL DUTY

If an employee on a modified duty assignment is unable to return to full duty at the end of 1600 hours, they will be placed on a qualified leave of absence. At this time, the employee may use accrued sick or vacation time or may be eligible to apply for FMLA, STD or LTD benefits. If this is a work-related injury, the employee may be eligible for workers comp salary continuation through worker's compensation insurance. While an employee is on modified duty, the time spent does not go toward the thirty day 'elimination period' for consideration of short-term disability.

Once an employee on worker's compensation has reached Maximum Medical Improvement and are still unable to be released to full duty by their treating physician, Risk Management and Human Resources will be contacted to determine other options. (i.e., long-term disability, medical leave status, etc.).

VII. MEDICAL RECORDS AND DOCUMENT MANAGMENT

Employee medical records are confidential. When an employee is on modified duty, all employee medical documents/records, modified duty work plans, and other related documents shall be immediately forwarded to Professional Standards. Professional Standards shall maintain these records in a confidential manner in accordance with Office policy.

The current restrictions for employees on modified duty, are housed in the Professional Standards SharePoint file, accessible by all supervisors. Additionally, a report documenting employees who are out on leave, policy and applicable forms, are also housed in this file for supervisor access.

This policy is not intended to alter any rights that an employee may have under ADA or any other provisions of state or federal law.

By Order of the Sheriff