



# **CITY OF AUSTIN**

# **PERSONNEL POLICIES**

For Non-Civil Service Personnel  
Includes Index to Amendments since 1996  
Issued February 2014





## M E M O R A N D U M

TO: Non-Civil Service Employees  
FROM: Mark Washington, Director of Human Resources and Civil Service  
SUBJECT: Personnel Policies

The Personnel Policies are divided into two chapters; Chapter A for Non-Civil Service and Chapter B for Civil Service. This Personnel Policies Manual contains policies for City of Austin Non-Civil Service employees. Future amendments to the policies will be distributed for inclusion in this manual.

These policies are not a legal contract of employment. The policies do provide information that will assist you in your job.

The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable accommodation and equal access to communications will be provided upon request.

We congratulate you on your chosen field as a City of Austin public servant and wish you great success.

Mark Washington  
Director  
Human Resources and Civil Service

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## **PREAMBLE**

These Personnel Policies are approved by the City Manager and the Austin City Council as provided in Article IX, Section 3 of the Charter of the City of Austin. Chapter A of these Policies applies to non-Civil Service employees who, as affirmed by the citizens of Austin in a 1993 referendum, are at-will employees. Chapter B of these Policies applies to Police, Fire Department and EMS Civil Service employees who are covered by the Civil Service Act in Chapter 143 of the Texas Local Government Code.

The purpose of these policies is to provide a set of principles for establishing and maintaining harmonious and productive City employee relationships in the conduct of City business.

The fundamental objectives of good personnel administration as supported by these policies include:

1. To promote and increase effectiveness, efficiency, and high quality performance in the service of the City through systematic performance planning and review.
2. To provide for fair and equal treatment of applicants and employees in accordance with appropriate legislation and judicial mandates.
3. To provide a program of recruitment, selection, and advancement that is based on qualifications and demonstrated performance in order to make the service of the City attractive as a career and encourage each employee to render his/her best services to the City.
4. To establish and maintain an equitable and uniform plan of position classification and compensation based upon the relative duties and responsibilities of positions in the service of the City.
5. To motivate employees to work toward the goals of the City administration by providing optimum working environments and relationships, and opportunities for achievement, recognition, and growth.
6. To safeguard the employee's right to be treated with respect, dignity, equity, and fairness.

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**INDEX TO PERSONNEL POLICY AMENDMENTS SINCE 1996**

\* Policies related to compensation are dependent on City Council approval of the Budget on an annual basis. For current information, contact the Employee Relations Division of the Human Resources Department.

## **CHAPTER A: NON-CIVIL SERVICE EMPLOYEES**

### **I. CONDITIONS OF WORK**

#### **A. DISCRIMINATION, HARASSMENT AND SEXUAL HARASSMENT**

##### **1. Discrimination**

As an Equal Employment Opportunity (EEO) employer, the City will conduct its staffing activities: selection, promotion, demotion, transfer, training and separation, in accordance with established federal, state and local EEO laws and regulations as they affect the City. The City of Austin will employ positive business and personnel practices designed to ensure equal employment opportunity.

The City of Austin will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, gender identity, age, religion, veteran status, disability, or sexual orientation. In addition, the City will not discriminate in employment decisions on the basis of an individual's AIDS, AIDS Related Complex, or HIV status; nor will the City discriminate against individuals who are perceived to be at risk of HIV infection, or who associate with individuals who are believed to be at risk.

Every manager and supervisor is expected to implement this policy through uniform and consistent employment practices. Management is also responsible for maintaining a professional working environment free of intimidation, sexual harassment, racial harassment, other forms of harassment and discriminatory conduct.

##### **2. Harassment**

The City is committed to promoting a work environment that is free of harassment. Harassment is abusive, obscene or threatening conduct or communication that is intended to harass, annoy, alarm, torment, embarrass or injure another. Employees who engage in such conduct while on duty or on City premises will be subject to immediate discipline.

While on duty or on City premises, employees shall not use obscene or abusive language or offensive gestures in their communication with coworkers or members of the public; employees shall not by oral, written, electronic or other means of communication threaten or intimidate coworkers or members of the public; employees shall not physically endanger, intimidate or injure coworkers or members of the public. Such conduct will not be tolerated.

##### **3. Sexual Harassment**

Sexual harassment, which is any unwelcome sexual conduct that occurs under one or more of the following conditions, is prohibited and shall not be tolerated. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature will be considered harassment when:

- a. Submission to such conduct is made either openly or by implication a term or condition of an individual's employment;
- b. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that person; or

- c. Such conduct unreasonably interferes with the individual's work performance or creates an intimidating, hostile, or offensive working environment.

Any manager, supervisor or employee who engages in such objectionable conduct is subject to immediate discipline up to and including termination.

Sexually oriented jokes, remarks, gestures, or pictures may be offensive to other employees and will not be tolerated.

#### **4. Reporting Violations**

Employees who experience discrimination, sexual harassment, another form of harassment or who become aware of a threatening situation as described in this policy, should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact their Assistant Department Director or Department Director or the Director of Human Resources. If an employee is aware of a threat of imminent physical harm to him/herself, another employee or member of the public, the employee should attempt to remove him/herself from the dangerous situation and immediately notify appropriate emergency personnel by calling "911." The employee should report this emergency call to his/her supervisor or management immediately.

No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting violations of this policy in good faith. The procedure for complaining about discrimination and harassment based on race, creed, color, national origin, sex, gender identity, age, religion, veteran status, sexual orientation, disability, AIDS or HIV status, is found in Section IV.C.3. of these policies. The procedure for addressing complaints about general grievance issues, including other forms of harassment, may be found in Section IV.C.2. of these policies.

### **B. EMPLOYEE CONDUCT**

Employees while on duty are at all times individually responsible for conducting themselves in a professional and ethical manner and for treating coworkers and members of the public with respect and dignity. The intent of this policy is to make a clear statement that unprofessional and abusive behavior will not be tolerated in the workplace.

In addition to the provisions in these policies, employees are responsible for complying with any other federal and state laws or regulations or local ordinances governing their conduct. This includes, but is not limited to, the City Charter, City Code sections 2-7-62 through -66 (*Standards of Conduct, Prohibition on Conflict of Interest, Disclosure of Conflict of Interest, Substantial Interest of Relative and Misuse of Official Information*).

### **C. TIME AND ATTENDANCE**

#### **1. Hours of Work**

The hours during which City offices and departments are open for business shall be determined by the City Manager. Department Directors shall implement schedules to meet these general requirements and to provide for other specific requirements of the department. Individual employees may be directed to work special hours or shifts as

determined by the needs of the department. Work schedules must be posted in all departments with continuous operation or rotating shifts.

## **2. Attendance**

Employees shall be required to be at their places of work in accordance with work schedules established by their department. Employees are expected to be at their work place or on official duty during City business hours or be officially excused by their supervisors. Any employee who fails to report, is habitually tardy, leaves the workplace without proper authorization or misuses leave may be subject to disciplinary action. All departments shall maintain attendance records.

## **3. Overtime**

All employees shall be required to work overtime when necessary as determined by departmental management. Specific overtime assignments shall be rotated and allocated as evenly as possible among employees qualified to do the work. Employees are expected to respond to a reasonable request to work overtime and may be subject to disciplinary action for failing to stay or report for overtime work.

## **D. SAFETY**

The City of Austin recognizes the importance of the health and safety of its employees and will provide a safe and healthful environment in which to work. Employees will not be required to perform hazardous duty without first receiving training concerning the hazard, the proper work methods, and any appropriate measures or equipment to be used.

Management will provide health and safety programs including, but not limited to: violence prevention, facility inspection, sanitary facilities, emergency evacuation, first aid, defensive driving, hazard identification and evaluation, and environmental protection. Employees are expected to participate in safety programs and are required to observe rules, regulations, and instructions as determined by management.

## **E. WEAPONS**

Employees, with the exception of those described in the following paragraph, are prohibited from possessing or storing a concealed handgun or other weapon (*see definitions*) while on duty or performing services for the City, or while in City uniform or in a City vehicle, regardless of whether the employee is on City property or not.

Licensed peace officers employed by the City as peace officers and employees assigned by the Chief of Police to perform security coordinator duties at the APD Headquarters facility may possess and store a concealed handgun or other weapon (*see definitions*) while on duty or performing services for the City.

While off duty, employees are prohibited from possessing or storing a concealed handgun or any other weapon on the property leased, owned or controlled by the City of Austin; to the extent pre-empted by state law, this sentence shall not apply to City parks, political rallies, political meetings or parades. This paragraph does not apply to public streets or sidewalks, nor does it prohibit an off-duty employee from traveling through the airport and transporting firearms, as long as the transportation is in compliance with all laws. (note: City practice will comply with all State laws.)

Employees who violate this policy may be disciplined up to and including immediate termination of employment.

## **F. WORKING CONDITIONS**

Management has the responsibility of maintaining efficiency within the operation, determining the methods of operation, scheduling events, and scheduling employees to accomplish the mission and objectives of work groups. Whenever possible, a committee will be established in each department and/or division, as appropriate, to review and actively solicit the recommendations of all employees concerning improvement of safety, efficiency and productivity, according to guidelines provided by the City Manager. Employees will be furnished the necessary vehicles, tools, equipment, facilities, and supplies to accomplish their assignments and will be expected to follow appropriate rules and guidelines for the use of such material and facilities.

In some cases, certain personal items of clothing, items for personal protection (i.e., gloves, shoes, glasses, etc.) or tools may be established as a requirement in specified areas to be provided by the employee. Certain jobs may require the use of personal vehicles for which reimbursement will be made based on the rate schedule in effect.

Employees should arrange their personal affairs to minimize interference with individual or group work performance. This includes personal visits of friends and relatives, phone calls, and requests for absence from work for personal financial, medical, or other reasons. Employees may request paid time off to conduct Human Resources related business such as Worker's Compensation claims, transfer applications, discrimination complaints, grievances, and insurance claims.

## **G. USE OF CITY RESOURCES**

Employees are prohibited from using City facilities, equipment, supplies, employee time, or any other City resource for personal use, except to the extent that such resources are available to the public. City resources which may not be used by employees for personal use include, but are not limited to, the following: computers, internet accounts, e-mail and voice mail systems, telephones, facsimile machines, copiers, postage machines, vehicles, office space, desks, and filing cabinets. These resources are dedicated to City business, and City Management shall have full access to both the resources and any contents thereof at all times. Employees have no legitimate expectation of privacy when using these resources.

Department Directors may allow employees limited use of telephones for local calls while ensuring that the operational needs of the department are being met.

## **H. POLITICAL ACTIVITY**

1. Employees are responsible for abiding by current and revised provisions outlined in Article 12, Section 2 of the City Charter, which pertains to Political Activity.
2. City employees may seek election to any public office. Employees seeking election to a City of Austin public office must request leave no later than the announcement date for candidacy or the official filing deadline for office, whichever comes first. Employees who are elected to a public office shall be required to resign from City employment effective the date they take office, if the City Manager determines that the office presents a conflict of interest with their City employment.

Supervisors at the third level and above in each department may not at any time participate or contribute money, labor, time, or other valuable thing to any person campaigning for a position on the City Council of the City of Austin. They may participate in all other political activities in accordance with the above charter provisions.

3. All employees of the City shall refrain from using their influence publicly in any way regarding any candidate for elective City office or regarding any election where an issue or proposal involves only City employees.

#### **I. SOLICITATION AND ACCEPTANCE OF GIFTS**

City employees shall not be permitted to solicit funds for any purpose on the job without the express approval of the Department Director and the City Manager.

No City employee shall accept or solicit any gift or favor that might reasonably tend to influence that individual in the performance of official duties or that the official or employee knows or should know has been offered with the intent to influence or reward official conduct.

#### **J. WORKING RELATIONSHIPS**

It shall be the responsibility of employees to perform the duties of their positions at a level of cooperation, efficiency and economy acceptable to their department and the City. Department Directors and supervisors shall plan, organize, and direct the work of their units to achieve the objectives of the department, including the establishment of performance standards, which will be periodically evaluated.

1. When work habits, production, or personal conduct of an employee needs improvement or change, supervisors should use the performance counseling and/or discipline policies (IV.A.,B.) to address the problem.
2. If any question arises concerning the validity of a supervisor's order, employees shall complete the tasks assigned unless:
  - a. The health and/or safety of the employee, co-worker or other person is endangered or
  - b. The order is illegal or unethical.

If the supervisor and employee are unable to informally resolve their disagreements, the formal complaint procedure may be used.

#### **K. HEALTH FITNESS**

It shall be the continuing responsibility of each employee to maintain the standards of physical and mental health fitness required for performing his/her position. When the physical or mental health condition of an employee constitutes a hazard to persons or property or prevents the employee from effectively performing the assigned duties, the employee may be requested by the Department Director to submit to a health examination. Employees may also be required to submit to an examination provided through the City's Employee Assistance Program and/or other providers qualified to determine an employee's fitness for duty, when requested by the Department Director and approved by the Director of Human Resources Department. The employee will be paid for the time required for such examination which shall be conducted at

no cost to the employee for the purpose of determining the employee's health conditions relative to City employment. Correction or treatment of conditions diagnosed during this examination shall be the responsibility of the employee. A Department Director may require an employee to take periodic special examinations to qualify for continued employment in his/her classification. The Department Director will not receive confidential medical information from the examination and will only receive the evaluator's assessment that the employee is fit for duty.

When an employee is no longer able to meet the standards of mental or health fitness required for performing the duties of his/her position due to an injury received on the job, it shall be the responsibility of management to assist the employee in obtaining other employment in the City for which he/she is qualified. Such assistance may include identifying outside training opportunities and/or providing on-the-job training, whenever possible, to fulfill this commitment. This assistance will be conducted in compliance with procedures established by the Director of Human Resources.

#### **L. OUTSIDE EMPLOYMENT**

All City employees are prohibited from engaging in other employment, which would interfere with the performance of their City duties and are prohibited from engaging in other employment, which would represent a conflict of interest.

#### **M. ASSIGNMENT OF WAGES**

The City shall not be obligated to recognize any assignment of wages or funds by its employees, or agents. (See Article XII, Section 6, City Charter.)

#### **N. PAYROLL DEDUCTION**

An employee has the right to request the Director of Finance to make regular deductions from his/her check for any purpose approved by the City Manager or City Council.

#### **O. WITHHOLDING OF WAGES FOR PAST DUE TAXES**

An employee's wages may be withheld pending settlement or discharge of back taxes, hospital bills, utility bills or any other debt owed to the City as specified in the City Code of 2003, as amended, (Sec. 2-8-3).

#### **P. BOARDS AND COMMISSIONS**

Employee participation on City-sponsored Boards and Commissions will be regulated according to appropriate City ordinance and/or administrative regulations.

#### **Q. DRUG-FREE WORKPLACE**

In order to ensure the safety and well being of its citizens and employees, and to comply with the Drug-Free Workplace Act of 1988 and the Texas Workers' Compensation Act, all City work sites shall be free of drugs, alcohol, and inhalants. The unlawful manufacture, distribution, dispensing, possession or use of inhalants or controlled substances or the possession or use of alcohol in the workplace or while on duty is prohibited.

City employees shall not report to work, remain on duty, or be on call for duty while under the influence of drugs or alcohol. It is also the policy of the City of Austin that employees shall not have their ability to work impaired as a result of the use of alcohol or drugs. All employees are required to comply with this policy. Any employee engaging in such activities will be subject to disciplinary action for misconduct, up to and including termination. With respect to use and possession of alcohol, this policy may be waived by the City Manager.

The Director of Human Resources will inform employees of the existence and content of the Drug-Free Workplace policy and possible consequences of violation of its requirements. The Director of Human Resources will also approve and establish a drug awareness program and will inform employees of the program's services, the dangers of alcohol, inhalants and drugs, and the availability of drug counseling and rehabilitation resources.

Employees who are convicted of any alcohol, inhalant, or drug violation, which occurs in the workplace or while on duty must report the conviction to their Department Director and to the Director of Human Resources within five (5) calendar days of the conviction. For this purpose, "conviction" includes any finding of guilt or imposition of sentence; it also includes deferred adjudication and a plea of *nolo contendere*. Employees who are convicted of any alcohol, inhalant, or drug violation which occurs in the workplace or while on duty may be subject to disciplinary action, up to and including termination, or be required to participate satisfactorily in a substance abuse or rehabilitation program approved by the City. Substance abuse treatment programs are available in the community and may be covered by the employee's health care program.

## **R. ALCOHOL AND DRUG POLICY FOR COMMERCIAL VEHICLE DRIVERS**

### **1. Policy**

This Policy is established in order to ensure the safety of the citizens and employees of the City of Austin and to comply with federal law (the Omnibus Transportation Employee Testing Act of 1991, as amended, and regulations issued by the U.S. Department of Transportation). Each covered employee is required to comply with the provisions of federal law, this Policy and the Procedures which implement this Policy. This Policy constitutes a safety rule of major significance.

### **2. Covered Employees and Applicants**

#### **a. Employees**

- (1) As required by federal law and for the purposes of this Policy, the term "commercial driver" includes any employee who operates or may be required to operate a commercial motor vehicle. This includes temporary, part-time, probationary and regular employees who operate a commercial motor vehicle only occasionally, intermittently or during an emergency. The term "commercial driver" is defined more fully in the Procedures implementing this Policy.
- (2) All covered employees will be subject to alcohol and drug testing in accordance with federal regulations, this Policy and the Procedures implementing this Policy.
- (3) All employees who apply for transfer to a position, which requires or could require that the employee operate a commercial motor vehicle will be subject to pre-employment testing before being transferred.

b. Applicants

All applicants who apply for positions which require or could require operation of a commercial motor vehicle will be subject to pre-employment alcohol and drug testing. Employee applicants who are not otherwise covered by this Policy who apply for or are to be promoted or are transferred or assigned into a position which requires or could require operation of a commercial motor vehicle will be subject to pre-employment testing the same as any other applicant.

**3. Procedures and Implementation**

- a. The Director of Human Resources Department is responsible for implementing and enforcing this Policy. Procedures and other informational materials will be issued to implement this Policy. Terms used in this Policy are defined in the Procedures, and those definitions shall control in all interpretations of this Policy.
- b. Covered employees are responsible for knowing the terms of and complying with this Policy and the Procedures. Each covered employee will be required to sign an Acknowledgment Form, indicating that the employee understands that he or she is subject to ongoing alcohol and drug testing.

**4. Educational Materials**

The City will provide materials to all covered employees which will include specific information about alcohol and drug abuse; the requirements of federal law, this Policy and the Procedures; the consequences for violating those requirements; and the alcohol and drug testing process. The materials also will include educational information concerning the effects of alcohol and drug use and specific information on where employees can get help for alcohol and drug abuse.

**5. Prohibitions**

Each covered employee is required to comply with the provisions of federal law, which include the following prohibitions:

- a. No commercial driver shall report for duty or remain on duty to perform a safety-sensitive function while having an alcohol concentration of 0.04 or greater.
- b. No commercial driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol or any product containing alcohol.
- c. No commercial driver shall use alcohol while performing safety-sensitive functions.
- d. No commercial driver shall perform safety-sensitive functions within four hours after using alcohol, regardless of the driver's actual alcohol concentration.
- e. No commercial driver who is required to undergo post-accident alcohol testing shall use alcohol for eight hours following the accident, or until he or she undergoes the test, whichever occurs first.

- f. No commercial driver shall refuse to submit to any alcohol or controlled substance test required under the law.
- g. No commercial driver shall report for duty or remain on duty to perform a safety-sensitive function if the driver uses any controlled substances, except when the controlled substance is used pursuant to the instructions of a physician and the physician has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.
- h. No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances.
- i. No driver shall report for duty to perform a safety-sensitive function if he/she has an alcohol concentration of 0.02 or greater but less than 0.04. Any driver who is tested for alcohol and found to have an alcohol concentration of 0.02 or greater, but less than 0.04 will not be permitted to perform safety sensitive functions until directed by his/her supervisor, but not less than 24 hours following administration of the test.

Safety-sensitive functions shall be as defined in federal law and the Procedures implementing this Policy.

## **6. Alcohol and Drug Testing**

### **a. Types of Testing**

As required by federal law, the City will conduct alcohol and drug testing in accordance with the U.S. Department of Transportation regulations and the provisions of this Policy and the Procedures which implement this Policy. Beginning January 1, 1995, the following types of testing will be conducted:

#### **(1) Pre-Employment Testing**

All job postings for such positions which require or could require operation of a commercial vehicle will indicate that pre-employment testing is required and that the applicant who is hired will be subject to ongoing alcohol and drug testing. This information also will be provided to applicants during the initial job interview. Applicants for such positions will be advised that any job offer is contingent upon negative alcohol and drug test results.

#### **(2) Post-Accident Testing**

If a commercial driver is involved in an accident in which there is a fatality or the commercial driver receives a citation for a moving traffic violation arising from the accident, the commercial driver will be subject to post-accident alcohol and drug testing. For purposes of this Policy, an accident is any incident involving a commercial motor vehicle which results in a human fatality, an injury which is treated away from the scene, or the removal by towing of a vehicle involved in the incident. All post-accident testing will be conducted in accordance with federal regulations and the procedures which implement this Policy.

### (3) Random Testing

Covered employees are subject to random alcohol and drug testing throughout the year at unannounced times. An employee could be randomly selected for testing more than once each year. Covered employees who are randomly selected for testing will be notified by a supervisor and will be required to report to the specimen collection site immediately. All random testing, including the selection of covered employees for testing, will be conducted pursuant to federal regulations and the procedures which implement this Policy.

### (4) Reasonable Suspicion Testing

Covered employees are subject to alcohol and/or drug testing if reasonable suspicion exists to believe that an employee has violated any part of the federal regulations or this Policy. Reasonable suspicion can be determined only by supervisors who have been specifically trained to do so. Reasonable suspicion will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the covered employee. The observations may include indications of the chronic and withdrawal effects of controlled substances. All reasonable suspicion testing will be conducted pursuant to federal regulations and the procedures which implement this Policy.

### (5) Return to Duty Testing

Covered employees are subject to alcohol and/or drug testing if a driver has violated Subsections (a) through (i) of Section R.5. of this Policy. The driver will be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse, and controlled substances use. The driver shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol or a controlled substances test with a verified negative result if the conduct involved a controlled substance. All return-to-duty testing will be conducted pursuant to federal regulations and the procedures which implement this Policy.

### (6) Follow-Up Testing

Covered employees are subject to alcohol and/or drug testing when identified by a substance abuse professional as needing assistance in resolving problems associated with alcohol misuse, or controlled substances use. The driver will be further evaluated by the substance abuse professional to determine that the driver has properly followed any rehabilitation program prescribed, and shall be subject to unannounced follow-up alcohol and drug tests following the driver's return to duty. The number and frequency of such follow-up testing shall be as directed by a substance abuse professional and consist of at least six tests in the first twelve months following the driver's return to duty. All follow-up testing will be conducted pursuant to federal regulations and the procedures which implement this Policy.

b. Substances and Methods of Testing

- (1) As required by federal law, tests will be conducted for both alcohol and drugs. Under the law, this Policy and the procedures which implement this Policy, the terms “drugs” and “controlled substances” have the same meaning. Both terms refer to marijuana (THC), cocaine, opiates, phencyclidine (PCP) and amphetamines (including methamphetamines).
- (2) In testing for alcohol, an Evidential Breath Testing Device will be used to determine a breath alcohol concentration. The device will conform to specifications established by federal regulations. Tests will be administered by a certified Breath Alcohol Technician.
- (3) In testing for drugs, a urinalysis will be used. A laboratory approved by the U.S. Department of Health and Human Services will conduct all drug tests. Any covered employee who uses a controlled substance under a physician’s prescription is responsible for reporting that information, prior to providing a urine specimen, to personnel at the specimen collection site.
- (4) When the urine specimen is collected for drug testing, it will be divided into two specimens (a “split specimen”). An initial screening test will be performed on one of the specimens. If the initial screening test is negative, there will be no further testing and the result will be reported as negative. If the initial screening test is positive, a confirmatory test will be conducted on the same specimen, using a different testing methodology. Only test results which are confirmed by the second test will be reported to the Medical Review Officer (MRO) as verified positive results.
- (5) All confirmed positive drug test results will be reviewed by a Medical Review Officer who is a licensed physician with knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate confirmed positive test results together with medical history and other relevant biomedical information. If the MRO determines that there is a legitimate medical explanation for the confirmed positive test result, the MRO will report the test result as negative.
- (6) Any covered employee who is notified of a positive drug test result has the right to request that a confirmation test be conducted on the second urine specimen (which has not been subjected to any testing). This request must be made within 72 hours after the employee is notified of the positive result. The cost of the test shall be paid by the employee.
- (7) All drug test results and medical information furnished during the testing process will be treated as confidential medical information and will be released only as required by federal regulations. Records of all tests conducted under this Policy will be maintained and used in accordance with federal regulations. Any tested employee has the right to request a copy of his or her testing records.

## **7. Consequences of Violations**

This Policy provides for referrals, which are required by federal law and disciplinary action for violations of federal law and this Policy.

- a. In addition to any disciplinary action, the following referrals and/or evaluations are required:
  - (1) A covered employee or employee applicant who violates any provision of the federal regulations or this Policy shall be advised by their Department of resources available to assist the employee in evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances.
  - (2) Any covered employee who violates Subsections (a) through (i) of Section R.5. of this Policy also shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with the misuse of alcohol and the use of controlled substances. If the substance abuse professional prescribes a rehabilitation program, the employee must complete that program, as a condition of continued employment. The substance abuse professional will advise the Human Resources Department Alcohol and Drug Program Coordinator of the prescribed rehabilitation program.
- b. Any covered employee or employee applicant who violates any provision of federal law or this Policy shall be subject to disciplinary action up to and including dismissal, at the discretion of the Department Director.

## **S. REPORTING FRAUD OR OTHER ILLEGAL ACTS**

Any City employee who has reason to believe that there may have been an instance of fraud, or other illegal act in connection with a City program, function or activity shall report it immediately to their supervisor or manager or to their Department Director, the City Manager's Office or the City Auditor as soon as possible.

Reports will be investigated as expeditiously as possible in accordance with procedures issued by the Director of Human Resources. Where investigation confirms that fraud or another illegal act has occurred, appropriate corrective action will be taken. Employees who commit fraud or other illegal acts will be subject to disciplinary action up to and including immediate termination, and will not be eligible for rehire.

Employees who report incidents of fraud or illegality or who assist in an investigation shall be protected from retaliation of any sort. However, any employee who assists in an investigation but who is found to have participated in the illegal act or fraud being investigated remains subject to discipline. In addition, if it is determined that a report was not made in good faith, or that an employee intentionally provided false information regarding an allegation, disciplinary action may be taken.

Any employee who believes that he or she has experienced retaliation for making a report or assisting in an investigation shall report this as soon as possible to the Department Director, Director of Human Resources, or to the appropriate Assistant City Manager.

## **T. PERSONNEL RECORDS**

The Human Resources Department will maintain personal work history records of each active employee. Records will also be maintained on inactive employees for not less than the period required by law. An employee's records are available for inspection in the Human Resources Department by the employee, any individual authorized by the employee, his/her immediate supervisor, Department Director or designee. The Human Resources Department will not release personnel records to individuals or agencies outside the City unless it is required by law.

Personal work history records maintained within each department are subject to the same provisions as those records maintained by the Human Resources Department. An employee at all times has a right to inspect any and all inclusions made a part of his/her personal work history records and may at any time submit personal work history information that will be included into his/her official records. Employees will be given a copy of any written record of a disciplinary or performance counseling that is added to their personnel file.

## **U. AMENDMENT OF PERSONNEL POLICIES**

These policies may be changed by the City Council upon the recommendation of the City Manager. Changes in these policies will be distributed immediately to each department and will be periodically incorporated into the Personnel Policies Manual. Each employee shall be provided a copy of the Personnel Policies Manual and all amendments.

## **II. STAFFING AND DEVELOPMENT**

### **A. SELECTION**

#### **1. Policy**

- a. Selection of new employees shall be the responsibility of each Department Director. It is the responsibility of the Director of Human Resources to assure that the appropriate procedures are used to sign up each new employee. Each employment selection will be in accordance with established Human Resources procedures.
- b. When minors are employed, they shall furnish the City with a minor's release.
- c. Membership or non-membership in any church, society, fraternity, association, union, or other lawful organization will not affect the employee's standing with the City, nor will these factors be considered in the selection of new employees.

#### **2. Employment Preference**

Preferences will be given to applicants residing within the corporate limits of the City of Austin if all other qualifications are substantially equal.

#### **3. Pre-employment Reviews**

Prior to making a job offer, a Credentials Verification must be completed in accordance with procedures outlined by the Human Resources Department. Credential Verifications will include confirmation that the candidate has required college hours or degrees, professional

licenses, certificates or driving records.

After a conditional offer of employment has been made, a prospective or transferring employee may be required to take a physical examination. Exams may not be required of an employee or applicant unless all employees in that job category are required to take one and the exam is job specific and required by business necessity. Physical examination standards for various positions will be established and maintained by the Director of Human Resources in cooperation with the hiring department. The medical examination will be performed by a physician designated by the City Manager and paid for by the City.

#### **4. Nepotism**

No person related within the second degree by affinity or consanguinity to the Mayor, any member of the City Council, or the City Manager shall be appointed to any office, position, clerkship, or other service of the City. This prohibition shall not apply, however, to any person who shall have been continuously employed by the City for a period of two years prior to the election of the Mayor or Councilman or appointment of the City Manager so related to him. In addition, the City Manager shall not approve the appointment to any supervisor's work group any person who is related within the second degree by affinity or consanguinity to that supervisor, nor shall the appointment of any member of the immediate family of any Department Director be approved unless the City Manager shall determine the necessity thereof because of the lack of qualified applicants for such position.

### **B. PROBATIONARY PERIOD**

#### **1. Policy**

In order to become a regular employee, each employee must complete a probationary period of six months following initial employment or reemployment in a regular budgeted position.

#### **2. Purpose**

The probationary period provides a specific time frame for supervisors to monitor, evaluate, and assist an employee in adjustment to service with the City in general and to the position in particular. Proper use of the probationary period will result in identification and retention of those employees who demonstrate the skills and meet the performance levels required of various positions. Successful completion of a probationary period should not be construed as guaranteeing continued employment or as creating a contract of employment.

#### **3. Responsibilities**

The Department Director, through subordinate supervisors, is responsible for the implementation of this policy and will:

- a. Assign an individual to probationary status on the initial employment or reemployment date.
- b. Evaluate the job performance of the new employee.
- c. Advise the employee of satisfactory or unsatisfactory progress and recommend areas for improvement if needed. A probationary employee may be terminated if improvement is

not determined. Whenever possible, ten working days notice should be given.

- d. Prior to completion of the probationary period, a performance review will be completed to indicate whether the employee is meeting expectations and whether the employee has successfully completed the probationary period. The Department Director will provide the employee and the Director of Human Resources with a written decision concerning termination of the employee.
- e. The Department Director may immediately terminate an employee any time during the probationary period. The Department Director should do so if the employee fails to satisfactorily perform the duties of his/her position or fails to comply with department or City work rules.

### **C. TEMPORARY EMPLOYEES**

A temporary employee is not assigned a probationary period upon employment with the City. Temporary employees are employed to accomplish specific, short-term or seasonal assignments. Most temporary employees will complete assignments within six months. However, in some specialized positions, a Department Director may decide whether to retain an employee longer than six months with review and approval of the Director of Human Resources.

A temporary employee who is hired into a regular budgeted position must serve a probationary period of six months. The employee, however, will receive service credit from the initial employment or reemployment date. Sick and vacation leave benefits which would have been accrued if the employee had occupied a regular budgeted position will be credited in a like amount to the employee at the time of change to a regular budgeted position. Other leave such as holidays, emergency leave, etc., occurring during employment in a temporary position will not be credited.

### **D. TRAINING AND DEVELOPMENT**

In order to meet individual and organizational needs, it is the policy of the City of Austin to provide training and development opportunities to encourage high-quality performance to prepare employees for new or increased responsibilities, skills, and to extend opportunities for individual growth, promotion, development, and self-fulfillment.

#### **1. Performance Planning and Review**

##### **a. Policy**

To insure that the quantity and quality of work performed by employees meet the needs of the City, employees and their supervisors will define and reach a mutual understanding concerning the performance standards and objectives set for each employee. The method by which supervisors should establish these standards and objectives will be provided for in procedures established by the Director of Human Resources. Related objectives are:

- (1) To help plan more effectively the work of City departments and other work units,
- (2) To identify training and development needs,

(3) To promote fair treatment of employees, and

(4) To provide for increased communication between employees and their supervisors.

**b. Scope of Program**

This policy shall apply to all employees in regular budgeted positions, except Police and Fire personnel covered by Civil Service. Temporary employees shall also be included when their employment is expected to exceed one year.

**c. Use of Performance Planning and Review Records**

Use of Performance Planning and Review Records shall include, but not be limited to performance counseling, termination decisions, grievance and discrimination complaints, disciplinary actions, and promotion, demotion, transfer and layoff actions.

**d. Performance Planning and Review Sessions**

An employee and his/her immediate supervisor shall meet regularly to develop performance standards and objectives for the employee's position, to review the employee's progress toward meeting goals and objectives, and to develop plans for employee's future training and development. Performance Planning and Review sessions shall be conducted at scheduled intervals in accordance with procedures developed to implement this policy. In addition, unscheduled sessions shall be conducted as required to counsel employees on changing work expectations and current performance problems or for any other purpose supporting the objectives of the Performance Planning and Review Program.

**e. Review and Appeal of Evaluations**

An employee's performance evaluation shall be reviewed by his/her next higher level supervisor and/or Department Director in accordance with established procedures. An employee may appeal his/her performance evaluation using the General Grievance process described in Section IV.C.2.

**E. PROMOTION - DEMOTION - REASSIGNMENT**

**1. Policy**

Promotions, demotions and reassignments will be made on the basis of skills, abilities, and demonstrated performance of City employees in an effort to provide maximum potential for employees so as to make City employment continuously attractive to qualified personnel and to enable the City to accomplish its goals and objectives. Demotions and reassignments may not be used for disciplinary purposes.

**a. Promotion**

A promotion will be accomplished after careful and thorough review of an employee's qualifications, previous work history, and demonstrated performance and shall take effect as soon as is practical. Each employee who is promoted shall serve a six-month evaluation period in his/her new position. Any employee who fails to perform satisfactorily during his/her evaluation period should be demoted, transferred, reassigned, terminated, or counseled using the performance counseling provisions in

## Section IV.A.

### b. **Demotion**

A demotion of an employee may be accomplished at any time an employee fails to satisfactorily meet performance standards established for that position. For situations of severe performance deficiencies, the Department Director may take immediate action, up to and including termination.

### c. **Voluntary Reassignments**

Voluntary reassignment may be requested by an employee. Reassignments may be initiated by a Department Director when the best interests of the City are served by such action. It may be necessary to reassign employees to other classifications with changes in title and pay for non-performance related reasons. This could result from a reduction in force when an employee's original position is eliminated and the City offers to reassign rather than lay off the employee. In this case the reassignment would not be a grievable action under Section IV.C.4.

## F. **TRANSFERS**

### 1. **Policy**

To provide maximum opportunity for advancement to all employees and to promote optimum staffing, it is the policy of the City to encourage the transfer of employees between City departments. No acts of retaliation shall result from transfer requests.

### 2. **Eligibility Requirements**

All regular employees are eligible to apply for transfers to currently vacant, advertised positions. Probationary and temporary employees are not eligible to apply for transfer without approval of their Department Director. In an effort to maintain continuity of working operations and work assignments, temporary employees should complete at least fifty percent of their employment before applying for transfer to another City department.

### 3. **Job Vacancy Announcement**

The Human Resources Department will prepare a job vacancy listing from all approved requisitions. This listing will be distributed to every department and should be posted in a timely manner at each work station.

### 4. **Transfer Activities**

- a. Employees may be granted time off with pay for interviews with the City which are scheduled with advance notification to their supervisor.
- b. When an employee is officially notified of selection for the new position, at least two weeks notice must be given to the present department. This provision may be waived by mutual agreement between affected departments.

## **G. SEPARATION**

### **1. Dismissal**

A Department Director may, after careful and factual consideration, dismiss an employee in accordance with policies outlined under the Performance Counseling/Discipline/Complaints section. The Department Director will furnish the Director of Human Resources and the employee a written statement indicating the reasons for dismissal.

### **2. Resignation**

To resign in good standing, an employee shall submit his/her resignation in writing to his/her Department Director at least ten working days before the effective date of resignation. Any employee submitting a resignation has 48 hours within which to reconsider and reserves the right to withdraw the resignation within this time limit. An employee who gives less than ten working days notice may forfeit terminal pay.

### **3. Layoff**

- a. Layoff of employees may occur when it becomes necessary for the City to effect immediate reductions in the size of the City work force. The order of layoff shall be determined by the current operating needs of the City, with consideration given to both an employee's length of service and past work performance. The Human Resources Department will coordinate all layoff actions with the affected departments according to approved procedures developed to implement this policy.
- b. Whenever possible, employees to be laid off will be given thirty days notice. Upon recommendation of the Director of Human Resources, the City Manager may provide up to twelve weeks of severance pay to an employee who has been laid off. If severance pay is given, it shall be provided in lieu of notice and shall not extend an employee's last day of employment.

When layoffs are required, efforts shall be made to assist affected employees in pursuing other open positions for which they are qualified and which are not affected by the layoff action. During the layoff notification period, an employee may elect to terminate their employment and will be considered to have resigned in good standing. An employee not wishing to terminate will be placed on a recall list during the notification period.

A recalled employee shall be reinstated with full service credit accrued during the notification period providing that the employee accepts the first offer of reinstatement to a position of at least equivalent status and pay grade. Placement assistance shall cease if an employee refuses such an offer of reinstatement.

- c. In instances where the City has negotiated the transfer of a function to another employer, and has also negotiated job offers with that employer, priority referral assistance will cease once the affected employee has been offered an employment opportunity with the other employer or has received a comparable offer of placement in another position within the City. Assistance shall cease when the period for accepting such an offer of employment ends.

#### **4. Rehire Eligibility**

Employees who are dismissed or resign can be designated as ineligible for rehire indefinitely or for a period of time. Such designation will be made when recommended by the Department Director, concurred with by the Director of Human Resources, and approved by the City Manager.

### **III. COMPENSATION**

*[Compensation policies depend on City Council approval of the Budget on an annual basis. For current information, contact the Employee Relations Division of the Human Resources Department.]*

It is the policy of the City of Austin to provide equitable compensation for its employees in the form of pay and fringe benefits in order for the City to attract and retain qualified individuals for all positions.

#### **A. WAGE AND SALARY**

##### **1. Purpose of the Plan**

The Position Classification and Pay Plan as established by ordinance is the basis for administering the City classified service. The purpose of the plan is to assure that each job in the classified service is paid at a rate appropriate for the level and type of work performed, both in relation to other positions in the service and to the City's competitive labor market. Copies of the plan, individual job specifications, and pay schedules are considered public documents and are available in the Human Resources Department for review.

##### **2. Maintenance of the Plan**

The Director of Human Resources shall be responsible for continuous maintenance and administration of the plan to assure that the purpose of the plan is fulfilled as work requirement changes in the various departments and as conditions change in the labor market. The Director of Human Resources shall further be responsible for determination of those positions which are eligible for overtime pay as provided in the Personnel Policies and those executive, administrative, professional, and other positions which are exempt from those provisions.

Any classification study or appeal conducted will include a review of all pertinent data provided by employees and/or departmental management. Other information on classification studies is covered in personnel procedures.

##### **3. Use of Position Title**

All positions are designated by titles on all official records, payrolls, and communications. No position will carry an official title, which has not been approved by the Director of Human Resources as being appropriate to the duties performed.

##### **4. Continuous Study of Pay Rates**

Prior to the preparation of the City's annual operating budget, the Director of Human Resources shall prepare an analysis of prevailing rates of pay for comparable public and

private employment in the area and at large, taking into consideration cost-of-living factors, budget effects of various alternative pay plans, and other factors which may be pertinent in recommending changes in the plan. On the basis of this information, the Director shall recommend to the City Manager changes in pay policy or in the pay plan necessary to keep the classification and pay plan current, uniform, and equitable. Recommended changes in pay policy shall become effective when approved by the City Council.

## **5. Total Remuneration**

As provided in the Classification and Pay Plan Ordinance, no employee will be paid at a rate more than the maximum for his/her pay grade unless the employee was earning that amount prior to the adoption of the Ordinance.

## **6. Entry Level Pay Rates**

Upon employment, a new employee normally shall be paid an appropriate compensation level based on guidelines provided by the Human Resources Department.

## **7. Transfer, Promotion or Demotion**

When an employee is transferred, promoted, or demoted to another position, all changes in rate of pay shall be in accordance with established procedures.

## **8. Payment of Overtime**

### **a. Exempt Employees**

Exempt employees are salaried employees and, except as provided, are not eligible for overtime compensation. However, the Director of Human Resources may in some cases approve additional compensation for exempt employees.

### **b. Non-exempt Employees**

Non-exempt employees will be compensated for any overtime worked when such compensation is required by law. Generally, overtime is any time worked in excess of forty hours in a week. However, a Department Director may utilize any overtime standard permitted by law if the Director of Human Resources has approved it. Employees will not be permitted to donate work time to the City.

Overtime will be paid at one and one-half times the employee's regular rate of pay. A Department Director may choose to use compensatory time in lieu of cash payment for some or all of the department's employees. Before the overtime is worked, employees must be informed that it will be compensated with compensatory time off rather than cash. Compensatory time shall be credited at the rate of one and one-half hours for each hour of overtime worked. A non-exempt employee may accrue up to 120 hours of compensatory time. Any additional overtime worked will be paid in cash.

An employee who requests the use of accrued compensatory time shall be permitted to take such leave within a reasonable period after making the request, unless the employee's absence would unduly disrupt the operations of the department.

## **9. Bad Weather Pay**

All non-exempt employees required to report for their regular work day but not allowed to work due to bad weather shall receive four hours pay for that day. Regular employees have the option of requesting accrued personal leave for the remainder of that workday. If alternate work is available in a department, employees may be assigned to this work. A schedule should be established to insure that all employees covered by the provision have the opportunity to receive consideration for alternative assignments on bad weather days.

## **10. Method of Payment**

Pay periods and dates of payment shall be set by the City Manager. Exempt employees are salaried. Non-exempt employees are paid for the actual number of hours worked during each workweek plus any authorized paid leave.

## **11. Terminal Pay**

All employees who leave the service of the City for any reason shall receive all pay, which may be due them with the following qualifications:

- a. Regular employees shall be paid for all unused vacation leave accumulated. Employees who leave before completing their six months service shall not be entitled to any vacation leave pay.
- b. Regular employees who have been continuously employed by the City since before October 1, 1986 and leave the service of the City in good standing, as determined by the Department Director and the Director of Human Resources or, in the case of a Department Director, by the City Manager, shall be paid for accrued sick leave as detailed in Appendix A.
- c. An employee shall not be considered to have left in good standing if he/she is dismissed or leaves employment of the City because of any pending investigation, which subsequently reveals that a recommendation for dismissal of the employee would have resulted.
- d. Beneficiaries (of employees continuously employed by the City before October 1, 1986 who die while in the service of the City, or who die while on approved military leave) shall be paid for unused sick leave as detailed in Appendix A.
- e. Regular employees who are dismissed will be given ten working days notice pay, or may be required to work during this period. When the reason for the dismissal is the conviction of a criminal offense against the City of Austin, or for reasons specified in Section IV.B.2.e., no notice pay shall be given.
- f. Upon determination by the Department Director, a resignation may be accepted effective immediately if in the best interest of the City, provided the employee is paid ten working days notice pay.
- g. Regular employees who give less than ten working days notice of resignation shall forfeit their accrued vacation leave unless mutual agreement is reached between the Department Director and the employee.

- h. Separation date for all employees shall be the last day of actual work or approved leave. Terminal pay received by an employee shall not be construed to extend his/her employment with the City beyond the separation date.
- i. Failure to return City issued equipment, uniforms, material, or other items may result in delay in payment of terminal pay. Terminal pay may also be delayed due to any pending investigation of an employee.

## **12. Service Incentive Pay**

Service Incentive Pay is an additional form of compensation provided to recognize the value of longevity in service to the City and to enhance, for newer employees, the advantages of becoming a long-term City employee. Service Incentive Pay is dependent upon approval of funding by the City Council.

### **a. Service Incentive Pay**

Regular employees who have completed five years of continuous service by December 1 of the year they are to receive pay, shall receive Service Incentive Pay as follows:

- (1) An employee shall be paid 1/4 of 1% for each year of service, based on the annual base pay of the employee as of December 1. Payment is to be made in a lump sum each year within the first two weeks of December if the employee is serving the City on December 1.
- (2) The maximum lump sum payment will be the amount calculated based on an employee's years of service or a specific amount approved by the City Council.

### **b. Service Incentive Pay Enhancement**

- (1) Eligible Employees: Service Incentive Pay Enhancement is available for employees in a regular (not temporary) position on April 1 of the year they are to receive pay, except employees who are included in the Public Safety and Emergency Management Department bargaining unit pursuant to Chapter 142 of the Texas Local Government Code.
- (2) Amount of Pay:
  - a. An eligible employee shall be paid a single lump sum payment equal to a percentage of the employee's annual base pay as of December 1 of the year they are to receive pay. Payment is to be made within the first two weeks of December if the employee is serving the City on December 1.
  - b. Only employees who qualify for both parts of Service Incentive Pay shall receive payment for both parts.

## **13. Military Pay Supplement**

The Military Pay Supplement is provided to support regular employees who are in U.S. Military Ready Reserve status as of December 6, 2001. To be eligible a regular

employee must meet the following eligibility criteria:

1. Must have exhausted the 15 days of paid military leave and any eligible leave the employee chooses to use prior to being placed on a leave of absence;
2. Must be reporting after December 6, 2001 to an active duty pay status in the Uniformed Services of the U.S. Military Reserves or National Guard; and
3. Must comply with procedures for the Military Pay Supplement as established by the Human Resources Department.

Eligible employees shall be paid an amount necessary to bring their total earnings, inclusive of all military pay, to the base pay earned from the City at the time they were called to active military service. Base pay earned from the City is the employee's hourly or salaried rate excluding all allowances.

## **B. BENEFITS**

The Director of Human Resources will review the City's employee benefits program on an annual basis. The Director of Human Resources will submit to the City Manager recommended changes to the benefits program as part of the wage and benefits package or as necessary throughout the year. Recommended changes to the benefits program shall become effective when approved and funded by the City Council.

### **1. Leave**

Leave may be granted by the Department Director upon request by an employee. Work schedules and operational requirements of the Department are necessary considerations, which may preclude granting of leave. Leave must be reasonably requested and the granting authority has a responsibility to respond in a reasonable time. A leave is granted for a specific period of time and any extension must follow the same procedure required for granting the original leave. Leave which qualifies as family or medical leave is also subject to the requirements of Section III.B.1.c.

#### **a. Paid Leave**

Paid leave is paid for at the same rate as hours worked during the basic work week and paid leave hours are counted as hours in the employee's work period and apply toward the employee's eligibility for earning benefits.

All regular part-time employees accrue paid leave on a pro-rated basis determined by their regularly budgeted work hours.

#### **(1) Holidays**

The following holidays are declared official holidays for City employees. If a holiday falls on Saturday, it will be observed on the preceding Friday; if a holiday falls on Sunday, it will be observed on the following Monday.

New Year's Day .....	January 1
Martin Luther King, Jr.'s Birthday .....	Third Monday in January
Washington's Birthday .....	Third Monday in February
Memorial Day .....	Last Monday in May
Independence Day .....	July 4
Labor Day .....	First Monday in September
Veteran's Day .....	November 11
Thanksgiving Day .....	Fourth Thursday in November Friday after Thanksgiving
Christmas Eve* .....	December 24
Christmas Day* .....	December 25
Two Personal Holidays ** .....	Open

\* Special Provisions for Christmas Eve and Christmas Day: When either or both of these adjacent holidays fall on a Saturday or Sunday, they will be observed as follows:

If December 24 falls on a Friday and December 25 falls on a Saturday, then the Christmas Eve holiday will be observed on Thursday, December 23 and the Christmas Day holiday will be observed on Friday, December 24.

If December 24 falls on a Saturday and December 25 falls on a Sunday, then the Christmas Eve holiday will be observed on Friday, December 23 and the Christmas Day holiday will be observed on Monday, December 26.

If December 24 falls on a Sunday and December 25 falls on a Monday, then the Christmas Eve holiday will be observed on Monday, December 25 and the Christmas Day holiday will be observed on Tuesday, December 26.

\*\* A Personal Holiday is a day off on a day the employee chooses and the Department Director approves. An employee is not eligible to take a Personal Holiday until the employee has completed the probationary period. Personal Holidays may not be accrued and must be used in the calendar year in which they are given. Personal Holidays not used on or prior to December 31 will be forfeited.

- (a) As many employees as possible will be given each holiday off. Employees who are regularly scheduled to work on holidays shall have holiday hours added to their exception vacation account or shall be paid for the holiday.
- (b) Exception Vacation hours are hours that are banked in a separate leave account for an employee when the employee works on a holiday. Employees may request to use these hours under the provisions of vacation leave Section III.B.1.a.(2). Upon separation, employees will receive payment for exception vacation hours at their hourly rate up to their accrual limit, which is 160 hours for regular employees. Departments determine whether they will pay for holiday hours worked or place them in exception vacation leave for their employees.
- (c) Employees who work on December 25 will be paid time and one-half their hourly rate for hours worked. When December 25 is also the observed Christmas holiday, employees who work on December 25 will be paid for the Christmas holiday in addition to the payment for their regular hours worked on

that day.

- (d) When the Christmas holiday is observed on a day other than December 25, employees who work on the observed holiday will be paid their regular rate for hours worked and either will be paid for the holiday or have the hours added to their exception vacation account. Employees whose regular day off is on the observed Christmas holiday will either be paid for the holiday or have the hours added to their exception vacation account.
- (e) When an employee's regular day off falls on a holiday, the holiday hours will be added to the exception vacation account or the employee shall be paid for that day.
- (f) Regardless of the number of hours in an employee's work day, the maximum number of hours paid for a holiday is eight. Part-time employees in regular budgeted positions will receive pay for holidays on a pro-rated basis.
- (g) An employee who is absent without authorization on his/her last scheduled work day before a holiday or the first scheduled work day after a holiday shall not be paid for the holiday.
- (h) When the City Council declares a special holiday, it shall be observed as provided above.
- (i) Temporary employees will be paid their regular rates on a holiday only if required to work. No payment for holiday work shall be allowed any temporary employee unless specifically authorized by the City Manager.

## **(2) Vacation Leave**

Full-time regular and probationary employees, with the exception of executives, shall accrue vacation leave for each pay period at the rates set out in Appendix A. Part-time employees in regular budgeted positions accrue vacation leave on a pro-rated basis. Vacation is accrued 24 of the 26 pay periods in the calendar year. Accrual rates and maximum balances are set out in Appendix A.

Vacation may be granted to an employee by a supervisor for any purpose determined by the employee. Vacation may be taken as family or medical leave under Section III.B.1.c. Vacation leave is subject to limitations in Section III.B.1.a.(8).

- (a) Official holidays occurring during an employee's vacation leave shall not be charged against their vacation leave.
- (b) The maximum allowed balance of vacation leave time is 400 hours for employees scheduled to work up to 40 hours per work week and not to exceed the maximum amounts listed in Appendix A for EMS employees who are on a 21-day work period. However, the City Manager or his/her designee may waive this limitation if the needs of the City preclude the taking of any excess vacation leave, which would otherwise be lost because of this limitation. The maximum amount of continuous vacation leave time which can be granted to an employee is four weeks, except as approved by the City Manager or when

vacation leave is taken as family or medical leave under Section III. B.1.c.

- (c) A Department Director and/or his/her designee shall schedule an employee's vacation leave, giving consideration to the ability of the remaining staff to perform the work of the department except when the vacation leave is taken as family or medical leave under Section III.B.1.c. The employee has the responsibility to assure that the leave request is made within a reasonable length of time prior to the commencement of the leave. Management has the responsibility to respond to this request in a timely manner according to established guidelines.
- (d) Accrual of vacation leave time begins immediately upon employment as a probationary employee with the City in a regular budgeted position. However, only regular employees are allowed to take vacation leave. (Except as provided in (e) below.)
- (e) Temporary employees shall not accrue vacation leave nor be entitled to vacation leave pay upon separation. Employees who earn leave as regular employees and then accept reassignment to a temporary or part-time position in which they are not eligible to accrue benefits are entitled to all earned or previously accrued leave as defined in these policies at the time of transfer.
- (f) Vacation leave time can be taken in minimum intervals of one-quarter hour.

### **(3) Sick Leave**

All full-time regular and probationary employees shall earn four hours of sick leave for each regular pay period. Sick leave may be accrued without limit. Sick leave is accrued 24 pay periods in the calendar year. Part-time employees in regular budgeted positions accrue sick leave on a pro-rated basis. Accrual schedules for employees in EMS who are on a 21-day work period are outlined in Appendix A.

- (a) Sick leave may be allowed in case of doctor appointments, personal illness, or physical incapacity of an employee. It may also be allowed when an employee is required to care for a member of his/her immediate family who is ill or incapacitated due to a medical condition. Sick leave may also be taken as family or medical leave under Section III.B.1.c.
- (b) Eligibility to take sick leave for a probationary employee begins immediately upon employment with the City.
- (c) To receive paid sick leave, an employee shall communicate with his/her immediate supervisor, Department Director or designee, before or within two hours after the time set for beginning work to receive approval for use of sick leave.
- (d) Sick leave can be taken in intervals of one-quarter hour for all time absent during the regular workday. Official holidays and regular days off shall not count against sick leave. Employees are eligible to take sick leave intermittently or on a reduced leave schedule only when medically necessary. Use of sick leave is subject to limitations in Section III.B.1.a.(8).

- (e) An employee who is pregnant should be allowed to use her accrued sick and vacation leave for maternity purposes for a reasonable time prior to the expected date of delivery and for a reasonable time following delivery as determined by the employee and the employee's physician, if the employee intends to return to employment with the City. If the employee does not plan to return to work, the provisions of these policies regarding terminal pay shall be applicable.
- (f) After an employee's accrued sick leave has been exhausted, vacation leave may be used as sick leave upon request of the employee. When absence due to illness exceeds the amount of total paid leave earned and authorized, the pay of an employee shall be discontinued until he/she returns to work. An employee whose paid leave has been exhausted may be entitled to unpaid leave under the Family and Medical Leave Policy (See Section III. B.1.c.) The employee will be placed on unpaid leave as of the day following the last day of paid leave. Sick leave will not be advanced.
- (g) Employees who become ill during vacation leave may request that vacation leave be temporarily terminated and time charged to sick leave. Such leave will be charged to sick leave or medical leave as appropriate.
- (h) A Department Director may require satisfactory proof of the proper use of sick leave and may disallow sick leave in the absence of such proof. An employee who misuses sick leave should be counseled; if the misuse continues, the employee is subject to disciplinary action, up to and including dismissal. An employee who is on sick leave for five consecutive working days or more must provide a Return to Work Release from the employee's health care provider before the employee will be permitted to return to work. The Return to Work Release must state that the employee is able to resume work.

**(4) Military Leave (short term)**

An employee who is a member of the state military forces or a reserve component of the armed forces will be granted up to fifteen days of paid leave per federal fiscal year for days on which the employee is engaged in authorized training or duty ordered or authorized by proper authority, subject to the following conditions:

- (a) All requests for leave must be accompanied by a copy of the order, directive, notice, or other document requiring absence from scheduled work.
- (b) Leave pay will not be granted for hours before or after the regularly scheduled working hours or for overtime hours scheduled.
- (c) Travel time included in the orders and paid for or reimbursed by the service may be counted as military leave.
- (d) Military leave will not be granted for diagnosis or treatment of any service-connected sickness or disability, for obtaining or sustaining any disability rating, or for treatment in any government facility.

- (e) Time required for physical examinations for selection or admission to the Military Service to determine or maintain a selective service rating, or to maintain a reserve status will be counted as military leave. Pay will be limited to the regularly scheduled hours lost.
- (f) Time required over and above the maximum allowed must be taken as vacation leave, zero time, or leave of absence.

**(5) Administrative Leave**

A Department Director may grant an employee administrative leave for a purpose approved by the City Manager. Examples of administrative leave include but are not limited to: blood bank donations, work hours lost on the day of an on the job injury, power failure, bomb threat, reduced work day by administrative directive, visits to other cities on City business, etc. Time off, when necessary, to vote in National, State, County and Municipal elections shall also be considered administrative leave. Time charged to administrative leave will be shown as regular time worked.

**(6) Court Leave**

Court leave will be granted to all employees except non-exempt temporary employees for the purpose of appearing as a juror, witness or other official participant in the proceedings of a legally recognized court or other body having power of subpoena, if an employee is not a party to the proceedings. The employee must provide a copy of the document requiring attendance in court with his/her leave request. This may be in the form of a jury notice, subpoena, letter of request from the defense or prosecuting attorney, request of the hearing officer, etc. This leave will not be charged against sick or vacation leave.

**(7) Emergency Leave**

All regular and probationary employees may be granted emergency leave for a period not to exceed three consecutive workdays in case of a death in their immediate family. Scheduled days off do not count against the allowed time off. This leave will not be charged against sick or vacation leave. Temporary employees may be granted unpaid leave in such cases.

Emergency leave is for the purpose of attending funerals, making arrangements, or otherwise attending the affairs of the deceased. An employee may be requested to provide information, which will document the necessity of the absence. Additional time off, if approved, must be taken as vacation leave or unpaid leave.

**(8) Wage Continuation Benefits**

Subject to the provisions set out below, any regular or probationary employee who sustains a work related injury or illness on the job may be eligible to receive wage continuation benefits in an amount not to exceed an amount equivalent to eighty hours of the employee's regularly budgeted pay following approval of the employee's request for wage continuation benefits. The total amount paid an injured employee while losing time from work, including any combination of workers'

compensation benefits, wage continuation benefits, sick leave, personal leave and wages for work performed, shall not exceed the budgeted gross pay which he/she would have received for such a period at his/her regular hours and rate of pay.

Wage continuation benefits are separate and distinct from, and in addition to, workers' compensation payments. While off work and drawing wage continuation benefits, an employee shall continue to accrue vacation and sick leave. Wage continuation benefit payments will not be charged against sick or vacation leave time. Approval and continuation of wage continuation benefits are contingent on the employee complying with the conditions outlined below.

**(a) Wage Continuation Program Rules:**

- (1) Employees will be eligible to receive wage continuation benefits only for such time as a physician, either selected by the Director of Human Resources, or selected by the employee and approved by the Director of Human Resources, or designated by the Texas Department of Insurance, Division of Workers' Compensation, certifies that the employee is not able to return to regular duty, with or without restrictions, and has not reached maximum medical improvement.
- (2) Employees able to return to limited duty but not having reached maximum medical improvement may be eligible for prorated benefits.

In no event, unless expressly authorized by the City Manager, shall the cumulative amount of wage continuation benefits paid to an employee in any calendar year exceed an amount equal to 80 hours of the employee's budgeted gross pay at his/her regular hours and rate of pay;

nor shall any wage continuation benefits be paid for any time lost or any inability to return to regular or full-time work beyond two calendar years from the date the injury was sustained.

- (3) If the employee sustains a lost time injury, wage continuation hours may commence the next day after an employee was injured and has started losing time from regularly scheduled work. Time lost on the day of the injury will be coded as Administrative Leave. During the first 40 hours of lost time from regularly scheduled work, the employee may use 40 hours of wage continuation benefits or a ratio of one hour of wage continuation benefits for each hour lost from regularly scheduled work due to the injury until the first 40 hours are used. Thereafter, wage continuation benefits may be used in a ratio of one hour of wage continuation benefits for each ten hours of regular time lost due to the injury until the maximum wage continuation benefit has been met.

The employee may be paid for actual time required to travel to and from a medical provider's appointment and the actual time at the provider's office until the maximum wage continuation benefit time as indicated above is met or the treatment exceeds the two-year period from the date of injury, whichever occurs first.

- (4) To be eligible for wage continuation benefits, an injured employee must:

- (a) have sustained a compensable injury or occupational disease as defined by the Workers' Compensation provision of the Labor Code, Sec. 401.011.
  - (b) have reported the injury to his or her immediate supervisor or designated department representative
    - within 24 hours of the occurrence of the injury; or
    - within 24 hours of the first diagnosis of a work-related illness by a physician; or
    - at the beginning of the next workshift. For repetitive motion trauma, including Carpal Tunnel Syndrome, the employee must report the injury or illness within 24 hours of when he or she knew that the injury or illness may be job-related.
  - (c) not have violated any written safety standards, rules or procedures.
- (5) An employee with an injury who is able to perform limited, partial, or part-time duty may be required by the Director of Human Resources or his/ her designee to do so for the employee's own department or another department if such work is available. While performing such limited, partial, or part-time duty, the employee shall be paid for such work by the department the employee was assigned to at the time of the injury.
- (6) An employee who does not qualify for wage continuation benefits, or whose benefits expire before being released to regular duty by the treating physician, may take his/her accrued sick and vacation leave, provided, if the employee is receiving weekly workers' compensation payments, then sick and vacation leave may usually be taken in an amount equal to one hour of sick or vacation leave for each 10 hours of time off of the job due to the injury. Sick and vacation leave may be taken in amounts necessary to achieve total net pay which is equivalent to the employee's regular net pay (excluding earnings that would have been due to overtime). Normally, this will not exceed 8 hours per pay period. An employee who has used all accrued sick and vacation leave, and injured employee wage continuation plan benefits before being released to regular duty, must request a leave of absence without pay.
- (7) Any employee who sustains any on the job injury, however minor, and who is physically able, must report the injury within twenty-four hours or at the beginning of the next regularly scheduled work shift to his/her immediate supervisor or designated departmental representative and receive such medical treatment as may be necessary. Each department will provide employees with a list of alternate reporting options if the immediate supervisor is not available. Failure to report the injury to the immediate supervisor or designated representative within the specified time limit will cause the employee to be ineligible to receive wage continuation benefits.

- (8) An employee who is injured after notice of retirement or of resignation or after receiving notice that he/she is to be laid off or discharged, shall not receive and shall not be eligible for wage continuation payments beyond the date his/her retirement, discharge, resignation, or layoff was to be effective. A probationary employee shall not receive wage continuation payments nor be eligible for such payments beyond the end of his/her probationary period unless confirmed as a regular employee based on his/her performance prior to the injury.
- (9) The Director of Human Resources or his/her designee may require an injured employee, in addition to medical treatment secured by the employee under workers' compensation laws, to submit to examination and treatment at City expense by a physician or physicians chosen or approved by the Director of Human Resources as a condition of receiving or continuing to receive wage continuation benefits. An employee who refuses to submit to such examination or to such diagnostic tests, x-rays, surgical procedures including exploratory surgery or such other treatment as such physician prescribes or recommends as medically necessary or indicated to diagnose, treat or cure the employee's injured condition, for any reason other than pre-existing religious beliefs or because such treatment would be more than ordinarily unsafe for the employee, shall forfeit all rights to any future wage continuation payments.

Failure to keep medical or therapy appointments shall be deemed a refusal to submit to examination and treatment for which the employee shall forfeit all rights to any future payments, provided the Director of Human Resources may suspend such payments and if the employee later submits to examination and treatment, the Director of Human Resources may authorize the resumption of injured employee wage continuation payments to the employee, however, the employee shall forfeit any payments that would have accrued during the period the payments were suspended. Such forfeiture should not extend to or affect the employee's workers' compensation medical or weekly disability payment benefits.

- (10) Under the following conditions an employee shall forfeit all rights to any future wage continuation payments that the employee would have otherwise been eligible for due to his/her physical injury:
- (a) Who is found to be working for pay at any job not held prior to the injury and not approved by the Director of Human Resources and not specifically recommended by the treating physician and/or physician designated by the Director of Human Resources; or
  - (b) Who resigns for any reason while receiving wage continuation payments; or
  - (c) Who is discharged for any reason, while receiving wage continuation payments; or

- (d) Who fails or refuses to comply with or follow or disregards or violates the treating physician's instructions regarding treatment of his/her injury; or
  - (e) Who retires or dies while receiving injured employee wage continuation payments; or
  - (f) Who refuses to perform limited, partial or part-time duty when offered by the Director of Human Resources and has been authorized by the treating physician; or
  - (g) Who refuses to accept or perform a different job with the City when offered by the Director of Human Resources or his/her designee that is within the employee's physical capacity and for which the employee is qualified or will be trained; or
  - (h) Who falsifies or misrepresents his/her physical condition or capacity of disability as worse than it in fact is while receiving wage continuation payments; or
  - (i) Who refuses to return to regular duty after he/she has been released to regular duty by the treating physician.
- (11) Except where suspension or forfeiture of benefits is due to death, resignation, retirement, discharge, or return to regular duty, the Director of Human Resources or his/her designee shall notify the employee by letter of such suspension or forfeiture, the reason thereof, the effective date thereof, and that the Director of Human Resources or his/her designated representative shall meet with the employee upon request if the employee wishes to protest the suspension or forfeiture. If at any time it appears to the Director of Human Resources that a suspension or forfeiture was not proper, in whole or in part, the Director of Human Resources shall retroactively rescind such part of the suspension or forfeiture as was not proper or shall totally rescind such suspension or forfeiture.
- (12) In addition to its rights of subrogation granted by law or contract for other benefits, including workers' compensation, the City shall also be subrogated to the rights of an injured employee or his/her beneficiary as against a third party to the extent of the injured employee's wage continuation benefit payments paid such employee under this provision.

The Human Resources Director is hereby authorized and directed to promulgate necessary rules and regulations for the efficient administration of this plan. Payment of benefits under this plan shall be upon authorization by the Director of Human Resources only and shall at all times remain subject to his/her approval.

**(9) Serious Injury Supplement**

Approval of payment is not a guarantee of continued employment, and does not delay the start of the return to work process.

Any regular or probationary employee who sustains a compensable work related injury or illness on the job and remains unable to return to work in any capacity for a period of nine continuous work weeks may be eligible to receive the serious injury supplement.

The serious injury supplement is in addition to, but separate from, worker's compensation payments.

The serious injury supplement is contingent on the employee complying with the eligibility and program rules outlined below.

**(a) Serious Injury Supplement Rules:**

- (1) Employees may receive the serious injury supplement only for such time as a physician, either selected by the Director of Human Resources, or selected by the employee and approved by the Director of Human Resources, certifies that the employee is not able to return to regular, limited, partial or part-time duty, with or without restrictions and has not reached maximum medical improvement.
- (2) The employee must submit a written request for the serious injury supplement to his/her department director.
- (3) Payments will begin after wage continuation benefits are exhausted and the employee has met all the serious injury supplement eligibility requirements.
- (4) Serious injury supplement payments may commence the following Monday after an employee has experienced nine weeks of continuous loss of work time due to a compensable injury or illness.
- (5) An injured employee will receive 8 hours of pay per week from the City as the serious injury supplement, which is in addition to workers' compensation Temporary Income Benefits. This 8 hours of pay will not be charged against sick or vacation leave time.
- (6) While off work and receiving the serious injury supplement, an employee shall continue to accrue vacation and sick leave. No accrued sick or vacation leave may be used during any week in which an employee is receiving the serious injury supplement.
- (7) Serious injury supplement payments will end at the earliest of the following: termination of employment, return to work in any capacity, 52 weeks from the date of injury, or upon reaching maximum medical improvement. Once serious injury supplement payments for a particular injury end, payments for that injury will not resume.

**(b) Eligibility Requirements for Serious Injury Supplement**

An injured employee must:

- (1) have sustained a compensable injury or illness as defined by the Workers' Compensation provision of the Labor Code, Sec. 401.011;
  - (2) not have violated any written safety standards, rules or procedures;
  - (3) have been qualified for and exhausted the allowable wage continuation benefits;
  - (4) be receiving workers' compensation Temporary Income Benefits;
  - (5) have experienced nine weeks of continuous loss of work time due to the injury;
  - (6) agree to case management; and
  - (7) be participating in or have participated in the City's return to work program.
- (c)** An employee who is injured after giving notice of retirement or of resignation or after receiving notice that he/she is to be laid off or discharged, shall not receive and shall not be eligible for the serious injury supplement beyond the date his/her retirement, discharge, resignation or layoff was to be effective. A probationary employee shall not receive the serious injury supplement nor be eligible for such payments beyond the end of his/her probationary period unless confirmed as a regular employee based on his/her performance prior to the injury.
- (d)** The Director of Human Resources or his/her designee may require an injured employee to submit to examination by a physician or other healthcare provider chosen or approved by the Director of Human Resources as a condition of receiving or continuing to receive the serious injury supplement.
- (e)** An employee shall forfeit all rights to any future serious injury supplement that the employee would otherwise have been eligible for due to his/her physical injury if the employee:
- (1) Is found to be working for pay at any job; or
  - (2) Resigns for any reason while receiving the serious injury supplement; or
  - (3) Is discharged for any reason while receiving this serious injury supplement; or
  - (4) Fails or refuses to comply with or follow or disregards or violates the treating physician's instructions regarding treatment of his/her injury. Failure to keep medical, therapy, or other healthcare appointments shall

- be deemed a refusal to submit to examination and treatments; or
- (5) Retires or dies while receiving the serious injury supplement; or
  - (6) Is deemed able to return to work in any capacity by the treating physician, and refuses to accept the City's offer of a limited, partial or part-time position; or
  - (7) Falsifies or misrepresents his/her physical condition or capacity or disability as worse than it in fact is while receiving the serious injury supplement.

- (f) In addition to its rights of subrogation granted by law or contract for other benefits, including workers' compensation, the City shall also be subrogated to the rights of an injured employee or his/her beneficiary as against a third party to the extent of the serious injury supplement paid such employee under this provision.

The Director of Human Resources is hereby authorized and directed to promulgate necessary rules and regulations for the efficient administration of this program. Payment of benefits under this program shall be upon authorization by the Director of Human Resources only and shall at all times remain subject to his/her approval.

**b. Unpaid Leave**

The granting of unpaid leave is subject to the approval of the Department Director or City Manager. The requesting employee must justify in writing any request for unpaid leave. When an unpaid leave exceeds two weeks in any month, service credit for all employment privileges shall cease until the employee returns from leave.

If an employee fails to return to work at the time specified in the application for unpaid leave and does not provide a reasonable excuse and notice to his/her department, that employee shall be considered to have resigned effective the date of return specified in the original application.

Except for "key employees" under certain circumstances, granting unpaid leave constitutes a commitment to the employee that there will be a position available upon his/her return, which is of at least equal pay grade as the position vacated and at the same or higher rate. However, this policy does not entitle any employee to any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken leave. For example, if during an approved leave, the employee is terminated for reasons unconnected with a legitimate leave, or the employee's position is eliminated through a reduction in force, the commitment to return the employee to a position with the City will cease on the day the employee is terminated or the position is eliminated. A "key employee" is defined as an employee who is salaried, and is among the highest paid 10 percent of City employees. The new position need not have the same classification as the one vacated.

While on leave of absence, sick and vacation leave cannot be accrued or used.

The employee's service credit is adjusted upon return from unpaid leave by the amount of leave taken.

When unpaid leave qualifies under the Family and Medical Leave Policy, it is also subject to the requirements of Section III. B.1.c.

**(1) Zero Time**

A Department Director may authorize an unpaid absence of one week or less as an extension of sick or vacation leave when those benefits are exhausted. Such leave shall be known as zero time and does not require that the employee separate from the City as with a Leave of Absence (below). In certain cases zero time may exceed forty hours, in which case the employee will forfeit a portion of accrued personal and sick leave according to leave penalty calculation tables. An employee who exceeds forty hours zero time in a pay period should be placed on leave of absence if appropriate. Zero time may also qualify under the Family and Medical Leave Policy (See Section III. B.1.c.)

**(2) Leave of Absence**

Regular employees may be granted a leave of absence for illness, disability, pregnancy, political activity, educational purposes, military duty or for any other legitimate purpose. Employees must provide justification for requesting the leave to their Department Director.

Leaves of thirty days or less may be approved by the Department Director. Leaves of more than thirty days must be approved by the Department Director and the City Manager or his/her designee.

An employee who is requesting a leave for one of the reasons listed in Section III.B.1.c.(1), but who has exhausted family or medical leave (See Section III. B.1.c.), may be granted a leave of absence. Leaves of absence of up to thirty days beyond the twelve-week family and medical leave allocation may be approved by the Department Director. Any leave of absence for more than thirty days beyond the twelve week family and medical leave allocation must be approved by the Department Director and the City Manager or his/her designee. Extensions for the same purpose as the leave was originally granted may be approved by the City Manager or his/her designee for any period of time not to exceed a total absence of one year. Leaves of one year may not be renewed.

Regular employees who volunteer for military service or who are called to service by military authorities at any time, shall be granted military leave of absence. An employee on indefinite military leave who does not accept reappointment with the City in his/her same or comparable position within ninety days after the date of release from active duty shall be considered to have resigned from the City.

**c. Family and Medical Leave Policy**

Employees who have been employed for at least twelve (12) months, and who have worked at least 1,250 hours during the preceding twelve-month period are eligible for

family and medical leave as required under the Family and Medical Leave Act (FMLA) of 1993. Except for those employees designated as “key employees,” employees will be returned to the same or an equivalent position upon their return from leave.

**(1) Conditions**

All eligible employees shall be granted family or medical leave consisting of unpaid leave, and when requested and appropriate, accrued sick and/or vacation leave, for a combined total of up to twelve weeks during the calendar year for the following reasons:

**(a) Family Leave**

- i.* the birth of the employee’s child and in order to care for the child;
- ii.* the placement of a child with the employee for adoption or foster care;

**(b) Medical Leave**

- i.* to care for a husband, wife, domestic partner, child or parent who has a serious health condition;
- ii.* a serious health condition that renders the employee incapable of performing the functions of his or her job.

**(c) Military Qualifying Exigency**

- i.* for qualifying exigencies arising out of the fact that the employee’s spouse, son, daughter, or parent is a military member in the Armed Forces, including the National Guard or Reserves on covered active duty, or that has been notified of an impending call or order to covered active duty.

**(d) Military Caregiver Leave**

- i.* up to twenty six (26) workweeks of leave consisting of unpaid leave, and when requested and appropriate, accrued sick and/or vacation leave for a combined total of up to 26 weeks during a single rolling forward 12-month period on the date the military caregiver leave is first used. Military Caregiver FMLA can be used:
  - To care for a covered service member, who is a current member of the Armed Forces, including the National Guard or Reserves, with a qualifying serious injury or illness who is the spouse, son, daughter, parent, or next of kin to the employee;
  - To care for a covered veteran, with a qualifying serious injury or illness who is the spouse, son, daughter, parent, or next of kin to the employee.

Employees are eligible to take medical leave intermittently or on a reduced leave schedule only when medically necessary. Employees are not entitled to take family leave intermittently or on a reduced leave schedule unless approved by their Department Director.

Any family leave must be taken within twelve months from the date of the birth or placement of a child for adoption or foster care.

If medical leave is requested, the employee may use accrued sick leave. After an employee's accrued sick leave has been exhausted, vacation leave may be used as sick leave upon request of the employee. If family leave is requested, the employee may use accrued vacation leave. For the birth of the employee's child and in order to care for the child, the employee may use accrued sick leave as allowed under Section III.B.1.a.(3)(e).

In the event that appropriate paid leave is exhausted, the remainder of the family or medical leave period will consist of unpaid leave. Any use of accrued leave under this section will count toward the 12-week annual family and medical leave allotment.

## **(2) Parental Leave Benefit**

Paid Parental Leave is available to mothers and fathers for the birth of the employee's child and the placement of a child with the employee for adoption or foster care without regard to the marital status or sexual orientation of the parenting individual. All employees in regular budgeted positions that qualify for FMLA leave can utilize the Parental Leave except those employees whose terms and conditions of employment with the City are negotiated through a collective bargaining agreement or a meet and confer agreement.

The paid Parental Leave Benefit is up to 30 working days for a maximum of 240 hours (six weeks) for employees scheduled to work 40 hours per work week.

Parental Leave must be taken within the FMLA period associated with the date of the birth or placement of a child for adoption or foster care. Employees are not entitled to take Parental Leave intermittently or on a reduced leave schedule unless approved by their Department Director.

## **(3) Leave Bank**

A voluntary leave bank, administered by the Human Resources Department, consists of accrued leave donated by employees and awarded to eligible, qualifying regular and part-time employees who are members of the Leave Bank.

All Leave Bank members in regular, budgeted positions who have exhausted all paid leave and who qualify for FMLA leave can request donations from the City of Austin's Leave Bank, except those employees whose terms and conditions of employment with the city are negotiated through a collective bargaining or meet and confer agreement. Requests for donations will be prioritized with higher priority given to employees who are not eligible for the Parental Leave Benefit described in Section III.B.1.c. Requests will be reviewed and acted upon by the Leave Bank Committee.

## **(4) Donating Accrued Leave**

A minimum donation of accrued leave is required for an employee to become a member of the Leave Bank. All donations are strictly voluntary. Donated hours cannot be

returned to the donor.

Donations will be requested through the annual Benefit Open Enrollment period. Each member must complete a form verifying his/her willingness to join the program on a voluntary basis. Membership will continue until a member 1) terminates employment, 2) retires, or 3) fails to renew membership. Membership in the Leave Bank does not rollover. Employees must renew their membership each year they want to participate. An employee who fails to become a member during an open enrollment period may become a member during the next open enrollment period.

A non-member who seeks leave from the Leave Bank due to an unforeseen FMLA qualifying event may enroll to become a member at any time.

One additional enrollment period may be scheduled annually at the discretion of the Human Resources Director. Leave Bank hours will be available to employees beginning in January following the Benefit Open Enrollment period.

Donations may only be made from accrued sick or vacation hours. The Human Resources Department will develop a procedure to establish the donation process and define minimum donation requirements.

#### **(5) Applying for Donations**

The Human Resources Department will develop a procedure and application process so that members of the Leave Bank can meet with their department FMLA coordinator to apply for donations from the Leave Bank program.

Members should submit their application before the requested hours are needed or as soon as practicable. Hours will not be awarded on a retroactive basis.

#### **(6) Receiving Donations**

A Leave Bank Committee, composed of a representative from the Human Resources Department, Financial Services Department, and the Employee Benefits Advisory Committee, will review and evaluate the applications to determine the number of Leave Bank hours, if any, to be awarded.

Members must exhaust their own accrued sick, vacation, exception vacation, personal holiday, and compensatory time balances and have a FMLA qualifying event prior to any award of Leave Bank hours.

Members that are eligible for and have not exhausted Workers Compensation benefits, or any other COA paid benefits (for example, LTD, STD, serious injury supplement, and wage continuation) are not eligible to be awarded Leave Bank hours.

Members may be awarded up to 240 Leave Bank hours for a FMLA-qualified condition or event. Leave Bank hours must be taken within the FMLA period associated with the qualifying event. The ability to award donated hours from the Leave Bank is dependent upon available hours voluntarily donated by employees.

Hours awarded are proportionate to the member's budgeted work week; i.e., a 20-hour/week member could be awarded up to 120 hours. Leave benefits continue to accrue while using Leave Bank hours.

If a member who receives donations terminates employment with the City before the

donations are exhausted, any unused donated leave balance will be returned to the Leave Bank. Members leaving employment with the City are not entitled to payment of awarded, but unused Leave Bank hours. Additionally, the estate of a deceased employee is not entitled to payment of unused Leave Bank hours.

#### **(7) Request for Leave**

An employee should request leave in writing. An employee who intends to take parental, family or medical leave for planned medical treatment must submit a request to their Department Director at least thirty days before the leave is to begin. The request must state the reason for the leave, the duration of the leave, and the starting and ending dates of the leave. When it is not practicable under the circumstances to provide thirty days advance notice, the employee must give notice to their Department Director as soon as possible but no later than two business days after the employee learns of the need for the leave.

A Department Director may require satisfactory proof of the proper use of medical leave and may disallow medical leave in the absence of such proof.

#### **(8) Benefits Coverage During Leave**

While on family or medical leave, employees have the option to continue health and other benefits coverage under the same conditions that applied before the leave began. For coverage to continue, employees shall continue to pay premiums that they would be required to pay if they were actively at work. Failure to pay the premiums may result in loss of coverage.

#### **(9) Return to Work**

Other than key employees under certain circumstances, employees eligible for family and medical leave will be returned to their old position or to a position with equal pay, benefits, and other terms and conditions of employment. The City cannot guarantee that employees will be returned to their original jobs. The City will determine whether a position is an equivalent position.

This policy does not entitle any employee to any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken leave. For example, if during an employee's approved leave, the employee is terminated for reasons unconnected with a legitimate leave, or his/her position is eliminated through a reduction in force, the commitment to return the employee to a position with the City will cease at the time the employee is terminated or the position is eliminated. An employee on medical leave for five consecutive working days or more for his or her serious health condition, must provide a Return to Work Release from the employee's health care provider before the employee will be permitted to return to work. The Return to Work Release must state that the employee is able to resume work.

#### **(10) Failure to Return to Work**

Employees who do not return to work after using all family or medical leave will be subject to immediate termination unless additional leave has been requested and granted. Employees should submit a written request for an

extension of leave to the Department Director. This written request should be made as soon as the employee knows that he or she will not be able to return on the original return date.

An employee who fails to return to work after the expiration of the leave will be required to reimburse the City for the City's portion of health premiums paid during the leave, unless the reason the employee fails to return is a serious health condition which prevents the employee from performing his or her job, or if the circumstances are beyond the employee's control.

**d. Absence Without Authorization**

Employees who are absent prior to receiving approval to take leave, or who are absent even though leave has been denied, or who are absent without contacting their supervisor regarding that absence will be considered absent without authorization, and may be subject to disciplinary action up to and including immediate dismissal for any amount of unauthorized absence. Such absences are recorded on time records in the same manner as zero time.

**2. Health Related Benefits**

The City is committed to providing cost-effective benefits, which assist employees in being physically and mentally healthy. The benefits and services offered by the City may be changed or terminated at any time upon approval of the City Council and do not constitute a guarantee of continued employment with the City.

Benefits are accompanied by eligibility requirements which must first be met by the employee and dependents (if applicable) before being able to be covered. The provisions of and eligibility for the various benefits are governed by each Plan instrument which may be a Plan document or certificate of coverage, or both.

With respect to medical and dental coverage, life insurance, the employee assistance and wellness programs, the definition of eligible dependent may vary from plan to plan.

**ā. Medical Coverage**

The City may offer, if economically feasible, medical coverage for eligible employees and their eligible dependents. Medical insurance may be offered for purchase by the employee and may be subsidized by the City at a level approved by Council on an annual basis.

**b. Dental Coverage**

The City may offer, if economically feasible, a dental assistance plan for eligible employees and their eligible dependents. Dental coverage may be offered for purchase by the employee and may be subsidized by the City at a level approved by Council on an annual basis.

**c. Life Insurance**

The City may offer, if economically feasible, basic life insurance to eligible employees to help them protect their family in the event of the employee's death. Basic life insurance may be offered for purchase by the employee and may be subsidized by the City at a level approved by Council on an annual basis. In addition to the basic life insurance, the City may offer eligible employees the opportunity to purchase supplemental life and accidental death and dismemberment insurance on themselves and dependent life insurance on their eligible dependents.

d. **FLEXTRA**

FLEXTRA is a tax savings program allowed by the Internal Revenue Service Code. Based on Council approval on an annual basis, the City may offer this program to enable eligible employees to deduct eligible premiums on a before-tax basis, and to set aside a portion of the employee's salary for dependent care or out-of-pocket health care expenses before tax and other such options as allowed by law.

e. **Short Term Disability**

The City may offer, if economically feasible, Short Term Disability (STD) coverage to eligible employees to provide them a portion of their salary when they are unable to work as a result of an off-the-job disability. Short-term disability insurance may be offered for purchase by the employee and/or subsidized by the City at a level approved by Council on an annual basis.

f. **Long Term Disability**

The City may offer, if economically feasible, Long Term Disability (LTD) coverage to eligible employees to provide them a portion of their salary when they are unable to work as a result of a disability. Long-term disability insurance may be offered for purchase by the employee and/or subsidized by the City at a level approved by Council on an annual basis.

**3. Other Benefits**

a. **Blood Fund**

The City may provide, if economically feasible, an Employee Blood Fund. This fund is intended to reduce reliance on community blood supplies by promoting continual, voluntary blood donations to ease the financial burden on employees who need blood products such as transfusions or plasma.

b. **Bus Passes**

The City may subsidize, when economically feasible, the cost of bus passes for eligible employees. When this benefit is provided by the City, eligible employees may purchase bus passes at a reduced rate for transportation to work.

c. **Child Care Information**

The City may offer, when economically feasible individual consultation and information on community resources for child care. The City may also, when economically feasible, subsidize child care costs for eligible employees.

**d. Deferred Compensation**

The City may make available a deferred compensation program. The Deferred Compensation Program is a voluntary, tax-deferred program designed to help supplement eligible employees' income at retirement. Through this program, eligible employees may designate an amount to be deducted from their gross salary on a before-tax basis each pay period and placed in an investment account selected by the employee.

**e. Employee Assistance Program**

The City may offer, when economically feasible, an Employee Assistance Program (EAP). This program is a professional, confidential counseling service available to help eligible employees and eligible dependents resolve personal problems. When funding is available, the City will provide this program at no cost to employees.

**f. Tuition Reimbursement**

The City may offer, when economically feasible, a Tuition Reimbursement Program for eligible employees. The Tuition Reimbursement Program generally supports technical and academic courses at accredited schools and institutions.

**g. Wellness**

The City may, when economically feasible, invest in the health and well-being of its employees through a wellness program. This program provides eligible employees access to wellness-related activities and programs when funding is approved by Council on an annual basis.

**IV. PERFORMANCE COUNSELING /DISCIPLINE /COMPLAINTS**

It is the intent of this section to establish clear, positive guidelines for corrective and preventive job performance counseling and for discipline, complaint and appeal processing. It is also the intent of this section to safeguard the rights of employees, to ensure that all employees are judged by fair and equitable standards and to require that all rules are applied on an equitable basis. This section should not be interpreted to eliminate the discretionary factors all employees, whether supervisory, non-supervisory or management, must rely on for discharging their designated duties and responsibilities.

**A. PERFORMANCE COUNSELING**

Any employee who exhibits substandard work performance should be counseled in the following manner:

**1. Initial Counseling**

For the first indication of substandard work performance the supervisor should advise the

employee of his/her unsatisfactory performance and recommend specific areas for improvement. A written record may be retained within the employee's department.

## **2. Written Documentation**

For a second indication of substandard performance, the supervisor will state in writing:

- a. The specific deficiencies observed in the employee's performance,
- b. The necessary improvement,
- c. The period of time in which improvement must occur, and
- d. What further action will result if the employee fails to show satisfactory improvement.

The written counseling memo should be signed by both the employee and the supervisor and shall be maintained within the department. If the employee refuses to sign, the supervisor should have a witness sign that a copy was given to the employee. The employee's signature indicates receipt of the document only, not necessarily acceptance of its contents.

If an employee continues to exhibit substandard work performance beyond the established time limits and below the expected level, the options available to the employee and supervisor will include: (1) reassignment, (2) demotion, or (3) termination.

## **B. DISCIPLINE**

In implementing the disciplinary procedure outlined below, a supervisor should consider such factors as the type and severity of the offense, the employee's work record, and any mitigating circumstances surrounding the offense. All employees have the right to appeal any disciplinary action through the complaint process outlined in this section.

### **1. Basis for Disciplinary Action**

Offenses constituting grounds for disciplinary action include, but shall not be limited to, the following major categories:

- a. Absenteeism
- b. Insubordination
- c. Misconduct
- d. Violation of Personnel Policy

### **2. Disciplinary Actions**

Any or a combination of the following disciplinary measures may be taken depending on the particular circumstances surrounding an offense. An employee shall be given warning with time to improve whenever possible prior to suspension or termination. The recommended disciplinary actions are listed below:

- a. **Oral Reprimand**

For the first violation, an oral reprimand will normally be given identifying any violations and indicating needed improvement. A written record of this warning may be maintained within the employee's department.

**b. Written Reprimand**

A written reprimand, which is normally the second step in the disciplinary procedure, should be signed by both employee and supervisor and shall be maintained within the department. If an employee refuses to sign, the supervisor should have a witness sign that a copy was given to the employee. The employee's signature indicates receipt of the document only, not acceptance of its contents. This document should include identification of the violation, indication of necessary improvement, and information concerning further disciplinary action that could result from failure to show improvement.

**c. Disciplinary Probation**

An employee may be placed on disciplinary probation for a stated period of time in order to allow the employee to show improvement on the problem(s) specified at the time of probation.

The disciplinary probation period will be initiated by a written document signed by the supervisor and provided to the employee, which:

- (1) Identifies the problem(s),
- (2) Indicates the necessary improvement,
- (3) Specifies length of probation period,
- (4) Informs employee of further disciplinary action, which could result from failure to show satisfactory improvement within the specified probation period.

**d. Suspension**

(1) Disciplinary Suspension

A Department Director may suspend a non-exempt employee without pay for a period from one to fifteen workdays. A Department Director may suspend an exempt employee for an entire workweek or multiples thereof. No disciplinary suspension or combination of suspensions shall exceed fifteen work days, or three work weeks in twelve consecutive months. An employee who is suspended shall be given written notice of the reasons for the action, and a copy shall be forwarded immediately to the Director of Human Resources to be made a part of the employee's personal history record. Following completion of the suspension period, the employee will be automatically reinstated.

(2) Other Suspension

During investigation, hearing, or trial of an employee on any civil cause or criminal charge, an employee may be suspended upon recommendation by the Department Director and approval of the City Manager for the duration of the proceedings when the suspension would be in the best interest of the City. An exempt employee shall be suspended only for entire work weeks or multiples thereof. The suspension shall terminate within ten days after completion of the case for which the employee was suspended by resignation or dismissal of the employee, or by reinstatement of the

employee with full recovery of all pay, or other appropriate action as determined by the City Manager.

(3) Violation of Safety Rules

The limitations set forth in subsections (1) and (2) do not apply if the reason for the suspension is a violation of a safety rule of major significance.

e. **Dismissal**

Dismissal normally occurs only when other disciplinary action has failed to achieve the needed results. Prior to dismissal, the Department Director should ensure that the employee has been properly counseled in writing concerning any deficiencies in behavior, given sufficient time to correct these deficiencies, and informed that failure to correct them may result in termination. However, this policy should in no way prevent the Department Director from taking immediate action when the nature of the offense warrants such action. The Department Director will furnish the Director of Human Resources with a written statement indicating the reasons for dismissal.

The following are examples of reasons for immediate dismissal:

- (1) Use or possession of alcohol or illegal use or possession of inhalants or controlled substances while on duty or in the workplace,
- (2) Falsification of official City records,
- (3) Theft, willful damage and/or unauthorized use of City property,
- (4) Willful failure to follow established safety guidelines when such failure could result in injury to the employee, co-worker, or other persons,
- (5) Violation of the Weapons Policy,
- (6) Acts and/or threats of violence, stalking, threatening behavior and/or intimidating or harassing behavior, which occur in the workplace and/or that are work-related or relevant to the employee's job.

An employee may file a complaint contesting his/her dismissal as outlined in the complaint policy. If the results of an investigation support the employee's complaint, he/she shall be reinstated with full recovery of back pay and benefits, or other action as determined by the City Manager.

**C. GRIEVANCES**

**1. General Statement**

It is the City's intent to provide a process by which employee complaints can be addressed and resolved quickly. No employee shall ever be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of filing a grievance or complaint in good faith or participating in the investigation of a complaint. If an employee feels that he/she is being subjected to any of the above, said employee will have the right to appeal directly to the City Manager or designee, with notice to the Director of Human Resources.

Any employee may file a complaint through the chain of supervision to the Department Director. A regular employee may also file a grievance concerning disciplinary probation, denial of promotion, suspension, demotion or termination of employment to the City Manager through the Director of Human Resources.

## **2. General Grievance**

Any employee who has a complaint may present that complaint through the departmental chain of supervision. (For grievances regarding discrimination, see Section 3.)

Supervisors and managers have a responsibility to respond to work-related complaints. If an employee cannot achieve resolution of the complaint at the first level of supervision, the employee may submit the complaint, through the departmental chain of supervision to the Department Director.

An employee should attempt to resolve any grievance or complaint informally by communicating with the immediate supervisor within five working days of the occurrence of the reason for the complaint. The immediate supervisor should respond and attempt resolution of the employee's complaints within five working days.

If the employee's concerns are not resolved to the employee's satisfaction, the employee may then address the complaint to the next level of management within five working days from the immediate supervisor's response.

If at this level the employee's concerns are not resolved to the employee's satisfaction, the employee may then address the complaint to the Assistant Department Director within five working days of receiving a response from the previous level of management.

Should the Assistant Department Director fail to resolve the employee's concerns to the employee's satisfaction within five working days, the employee may address the complaint, to the Department Director within five working days from receipt of the Assistant Department Director's response. The Department Director should respond to the employee's complaint within seven working days.

If at any of these levels, a supervisor or manager fails to respond within the specified time, the employee should proceed to the next level of management within five working days of the latest date a response should have been received. An employee who fails to do so within thirty days will be considered to have dropped the grievance. Extensions may be granted if both parties agree in writing.

The decision of a Department Director is final unless the grievance concerns disciplinary probation, denial of promotion, demotion, suspension or termination of employment of a regular employee, or if the grievance concerns unlawful discrimination or harassment. In those instances the grievance shall be processed according to the following provisions.

## **3. Discrimination Grievance**

Any employee who has a complaint based upon discrimination or harassment on the basis of race, creed, color, national origin, sex, gender identity, age, religion, veteran status, sexual orientation or disability, including an individual's AIDS or HIV status, may file a grievance.

An employee who feels discriminated against or harassed is urged to contact the department's Director, Assistant Director, or the Director of Human Resources as soon as possible. Any employee, supervisor or manager who becomes aware of any such discrimination or harassment should immediately report it to the Assistant Department Director, Department Director or to the Director of Human Resources to ensure that such conduct does not continue.

The Department Director or the Director of Human Resources, as appropriate, is responsible for investigating the complaint and assuring that necessary action is taken. An employee who is dissatisfied with the action taken should contact the City Manager's office as soon as possible. The City Manager may refer the complaint for investigation prior to the Manager's consideration.

#### **4. Grievance Concerning Disciplinary Probation, Denial of Promotion, Demotion, Suspension or Termination of a Regular Employee**

Any regular employee who has a grievance concerning disciplinary probation, denial of promotion, suspension, demotion or termination of employment may utilize the grievance process described in this section. All grievances must be filed in writing within the specified time. The required forms will be available in the Human Resources Department. At the time the grievance is filed the employee must; (a) select a hearings officer from a list provided by the Director of Human Resources, and (b) for grievances involving termination, choose either hearings option A or B as specified in Section IV.C.4.c.

All grievances shall be processed in a timely and efficient manner. A hearing shall be held within twenty working days of the Director of Human Resources' receipt of the employee's written request. Grievances will be heard by an impartial hearings officer trained in fact finding.

A record will be made of each hearing of a grievance. The hearing will be conducted according to procedures approved by the Director of Human Resources.

##### **a. Department Level Appeal**

A regular employee who has a complaint regarding disciplinary probation, denial of promotion, suspension or demotion may file a written grievance with the supervisor or manager within twenty working days of the action. (A regular employee who has a complaint regarding termination of employment may file directly with the Director of Human Resources as outlined in section b. of this policy.)

The supervisor or manager should respond in writing within ten working days of receipt of the grievance.

If the employee receives no response or is not satisfied with the response, the employee may appeal to the Department Director within five working days of receipt of the supervisor's or manager's response.

The Department Director should respond in writing within fifteen working days of receipt of the grievance.

##### **b. Hearing Requests**

A regular employee whose employment has been terminated or a regular employee who wishes to appeal a Department Director's decision regarding the appeal of a disciplinary probation, a denial of promotion, a suspension or a demotion may request a hearing. The employee must make a written request to the Director of Human Resources within twenty (20) working days of the employee's receipt of actual notice of the termination or receipt of the Department Director's response to the grievance.

**c. Hearings**

**(1) Termination**

If the grievance involves a termination, the employee must select hearings option A or B:

**Option A**

The hearings officer shall be responsible for producing a written report which contains a summary of the evidence and findings of fact. A copy of the hearings officer's report will be forwarded to the Director of Human Resources, the grievant, Grievance Committee, and the Department Director within seven working days of the hearing. The Director of Human Resources will schedule a meeting for the grievance committee.

The grievance committee will review the report and make a recommendation to the City Manager to uphold, reverse or modify the department's action. (See Section IV.C.4.e)

**Option B**

Regular employees filing a grievance concerning termination may request to have their grievance heard by a hearings officer who will produce a written report which contains a summary of the evidence, findings of fact, and a recommendation. The recommendation will be to uphold, reverse or modify the department's action. Such recommendation should be consistent with personnel policies. The report including the recommendation will be provided to the City Manager, with copies to the grievant, the Department Director, and the Director of Human Resources.

**(2) Other Grievable Personnel Actions**

Grievances of all actions other than termination will be heard by a hearings officer who will produce a written report containing a summary of the evidence, findings of fact and recommendation to the City Manager. The recommendation will be to uphold, reverse or modify the department's action. Such recommendation should be consistent with personnel policies. The report including the recommendation will be provided to the City Manager, with copies to the grievant, the Department Director, and the Director of Human Resources.

**d. Grievance Committee**

The grievance committee will consist of a panel of three members selected from a pool of twelve regular employees who will be elected by City employees.

A committee member will be automatically disqualified from serving on a particular grievance panel if that member is employed in the same department as the grievant, is personally acquainted with the grievant, or has personal knowledge of the facts of the matter being grieved. Any committee member who has discussed the particular grievance with anyone other than the two other committee members shall disclose that fact and shall not participate.

**e. Grievance Committee Meeting**

The grievance committee will meet and develop a recommendation to the City Manager within five working days of receipt of the hearings officer's report. The committee will determine the action, if any, to recommend to the City Manager. The committee may recommend to uphold, reverse or modify the department's action. Such recommendation shall be based exclusively on the written findings of fact, and should be consistent with personnel policies.

The grievant and the department may attend this meeting to make a presentation related to the recommendation that the grievance committee will make to the City Manager. Only information pertaining to the facts previously submitted in the hearings officer's report will be accepted. The grievance committee meeting will be conducted according to procedures established by the Director of Human Resources.

**f. City Manager**

The City Manager's decision will be issued in writing within twenty working days of the Manager's receipt of the complete grievance record, including the hearings officer's report and the committee's recommendation. The City Manager will only use information provided through the grievance process in making a determination. When necessary, the Manager may take up to ten additional working days if the grievant is notified in writing of the reasons for the delay.

As provided in the City Charter, the City Manager has the authority to appoint and remove most City employees. The City Manager may implement all, part, or none of the recommendation of the grievance committee or hearings officer. The City Manager's decision is final except in those cases where an employee is appointed by the Council and for employees of the Municipal Court, where the decision of the Clerk of the Court shall be final.

**5. Procedure Complaints**

If either party has a concern about the hearing procedure they may file a complaint with the Director of Human Resources within 48 hours upon the completion of the hearing.

If either party has a complaint concerning the hearings officer's report, they may file it with the Director of Human Resources within 48 hours of the receipt of the report.

The Director of Human Resources will investigate any complaint concerning the grievance process and take appropriate action to correct the problem. Such actions may include but are not limited to:

- a. Direct the hearings officer to review the evidence and confirm the report and finding

of fact.

- b. Inform the City Manager of issues related to the report.

## **6. Timeline Extensions**

Any of the above time limits may be extended by written agreement of the employee and the Department Director or by the direction of the City Manager or the Director of Human Resources.

**DEFINITIONS** (Some of these definitions may pertain to Civil Service or Non-Civil Service exclusively.)

**Absence Without Authorization**

Absence from work without permission of an employee's immediate supervisor. This includes failure to notify the immediate supervisor of the inability to report to work.

**Break in Service**

An absence from the service of the City of Austin occurring between the termination date and subsequent reemployment date, which causes the loss of service credit.

**Classification**

A group of positions sufficiently similar in duties and responsibilities such that the same title may be used to designate each of the positions, that the same employment standards may be applied to all incumbents or applicants and that the same pay grade may be applied with equity under comparable employment conditions.

**Classification Study**

The collection, analysis and evaluation of data by the Human Resources Department to determine the proper value of a classification and/or the proper classification of an individual position.

**Demotion**

The assignment of an employee from a position in one pay grade to a position in another pay grade having a lower maximum salary rate made for non-Civil Service employees at the discretion of the Department Director.

**Department**

A major functional unit of the City government.

**Department Director**

A person appointed by and responsible to the City Manager or City Council for administration of a Department.

**Department Head**

The chief or head of the fire or police department or that person's equivalent, regardless of the name or title used.

**Division**

A major functional unit of a department.

**Domestic Partner**

The individual who lives in the same household and shares the common resources of life in a close, personal, intimate relationship with a City employee if under Texas law the individual would not be prevented from marrying the employee on account of age, consanguinity or prior undissolved marriage to another. A domestic partner may be of the same, or opposite, gender as the employee.

**Employee**

Any individual working in the service of the City of Austin in an official, paid capacity or who is on unpaid leave of absence. (See also Employee, Probationary; Employee, Regular; and Employee, Temporary.)

**~ Exempt Employee**

The employment status which indicates that an employee is salaried and not eligible for overtime compensation except by approval of the Director of Human Resources.

**~ Full-Time Employee**

The employment status which indicates that an employee is regularly budgeted to work 40 hours or more per week.

**~ Non-Exempt Employee**

The employment status which indicates that an employee is paid on an hourly basis and is eligible for overtime compensation as provided in these policies.

**~ Part-Time Employee**

Regularly budgeted to work less than 40 hours per week.

**~ Probationary Employee**

An employee who has not completed six months of continuous service with the City in one or more regular budgeted positions.

**~ Regular Employee**

Any employee who has completed six months of continuous service with the City after his/her

initial employment or reemployment in one or more regular budgeted positions, or who entered the service of the City before January 1, 1954, and has been in service continuously since that time.

**~ Temporary Employee**

Any individual employed for a period of time which usually does not exceed six months, or for some longer period when the position requires non-continuous, but repetitive, short- term assignments.

**Foster Care**

“As defined by the regulations implementing the Family and Medical Leave Act of 1993.”

**Health Care Provider**

“As defined by the regulations implementing the Family and Medical Leave Act of 1993.”

**Immediate Family**

An employee’s immediate family includes the employee’s:

- parents (*biological parents, adoptive parents, or persons in loco parentis to employee when employee was a child*);
- spouse (*husband, wife, or domestic partner*);
- child (*biological, adopted, foster, stepchild, legal ward, or a child who is under 18, for whom the employee is a person standing in loco parentis, or age 18 or older with a disability and incapable of self-care*);
- sisters, brothers;
- grandparents;
- grandchildren;
- parents and grandparents of an employee’s spouse; and any relative living in the same household with an employee.

**Immediate Supervisor**

An individual charged with the responsibility for directing another employee’s daily activities.

***In Loco Parentis***

“As defined by the regulations implementing the Family and Medical Leave Act of 1993.”

**Initial Employment Date**

The original date of entry into a paid position in the service of the City.

**Lateral Reassignment**

Reassignment of an employee to a position in the same pay grade but having different duties and responsibilities.

**Layoff**

The elimination of a position by the City for reasons beyond the control of an employee and not reflecting discredit to the employee.

**Military Leave**

An absence from the service of the City for service in the Armed Forces of the United States.

**Month**

One calendar month.

**Next of Kin of a Covered Servicemember for FMLA**

The nearest blood relative other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as the nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember all such family members shall be considered the covered servicemember’s next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember’s only next of kin.

**On-Call**

Available to be called back to work outside officially scheduled work hours.

**Overtime**

Any time worked by a non-exempt employee which exceeds the legally permitted number of non-overtime hours for the work period.

**Pay Grade**

Divisions of the pay schedule with specified rates of pay into which positions are classified, based on the value of the duties, responsibilities, authority and other factors relative to all other positions in the system.

**Pay Grade Adjustment**

An adjustment in the pay grade assigned a classification as the result of a change in the value of that classification relative to all others in the system.

**Performance Planning and Review**

The process of assessing an individual's past performance and present capabilities against established performance standards and objectives for the purpose of improving organizational effectiveness and developing individual potential.

**Regular Budgeted Position**

All uses of the term "regular budgeted position" in these policies refer to positions filled by probationary or regular employees.

**Physician, Licensed**

A physician licensed by the Texas State Board of Medical Examiners.

**Position**

A group of defined duties and responsibilities assigned or delegated by an appointing authority, requiring full-time or part-time employment.

**Position Reclassification**

A change in classification for an individual position based on a change in duties and responsibilities.

**Probationary Period**

A working trial period of six months following

initial employment or reemployment into a regular budgeted position, during which an employee is required to demonstrate his/her ability to perform the duties of the position.

**Promotion**

The assignment of an employee from a position in one pay grade to a position in another pay grade having a higher maximum salary rate.

**Reemployment Date**

The date of entry into a paid position in the service of the City following the termination date of a previous period of employment with the City.

**Salary Adjustment**

A change in an individual's pay rate based upon the individual's attainment of any required licenses, registrations or certifications, or a reassessment of the individual's employment history and educational background as related to the approved employment standards for a given position.

**Serious Health Condition**

"As defined by the regulations implementing the Family and Medical Leave Act of 1993."

**Service Credit**

The credit allowed for an employee's length of service when computing certain benefits such as vacation leave, sick leave, and retirement.

**Transfer**

The move of an employee from one department to another. This move may be promotional, demotion, or lateral.

**Voluntary Reassignment**

A change to a position in a pay grade with equal or lower maximum salary rate made at the request of an employee.

**Weapon**

Weapons include, but are not limited to the following: any firearm, including air pistols, air rifles, any switchblade knife or other knife with a blade longer than five and one-half inches in length (unless such a knife is used as a regular tool in the performance of the employee's duties) explosive materials, toxic agents, or any other weapon or device intended to be used as a tool

of violence (e.g., chains, brass knuckles, baseball bats, tire iron).

**Work Day or Working Day**

Any one shift during which a department is open for business or on which an employee is scheduled to work.

**Work Period**

Usually seven continuous 24 hour days; for some public safety employees, a longer period designated by the Department Head or Director.

**Zero Time**

An unpaid absence from the City during which benefits are accrued and service credit is earned.

## Appendix A: Leave Accrual for City Employees

Effective FY 2010-2011

Employee Group	Hours per Work Week	Years of Service	Vacation Hours	Sick Leave Hours*
Regular Non-Civil Service	40	Less than or equal to 5	4.34	4.00
		More than 5	5.34	4.00
		More than 10	6.00	4.00
		More than 15	6.67	4.00
		More than 20	7.67	4.00
Regular Non-Civil Service	More than or equal to <b>30</b> , and less than <b>40</b>	Less than or equal to 5	3.25	3.00
		More than 5	4.00	3.00
		More than 10	4.50	3.00
		More than 15	5.00	3.00
		More than 20	5.75	3.00
Regular Non-Civil Service	More than or equal to <b>20</b> , and less than <b>30</b>	Less than or equal to 5	2.17	2.00
		More than 5	2.67	2.00
		More than 10	3.00	2.00
		More than 15	3.34	2.00
		More than 20	3.84	2.00
Regular Non-Civil Service	Less than <b>20</b>	Less than or equal to 5	1.09	1.00
		More than 5	1.34	1.00
		More than 10	1.50	1.00
		More than 15	1.67	1.00
		More than 20	1.92	1.00
Executive	40	N/A	7.67	4.00

Note: Vacation leave and sick leave are accrued 24 pay periods in the calendar year.

\* Sick leave is paid to employees on separation if they were hired before 10/01/86 and have been continuously employed since.

**See also: Appendix A: Leave Maximums for City Employees (related chart)**

## Appendix A: Leave Accrual for City Employees (continued)

Effective FY 2010-2011

Employee Group	Hours per Work Week	Years of Service	Vacation Hours	Sick Leave Hours*
Regular EMS	48	Less than or equal to 5	5.58	4.98
		More than 5	6.87	4.98
		More than 10	7.73	4.98
		More than 15	8.59	4.98
		More than 20	9.88	4.98
Regular EMS	42	Less than or equal to 5	4.88	4.33
		More than 5	6.00	4.33
		More than 10	6.75	4.33
		More than 15	7.50	4.33
		More than 20	8.63	4.33
Regular EMS	40	Less than or equal to 5	4.34	3.83
		More than 5	5.34	3.83
		More than 10	6.00	3.83
		More than 15	6.67	3.83
		More than 20	7.67	3.83

Note: Vacation leave and sick leave are accrued 24 pay periods in the calendar year.

\* Sick leave is paid to employees on separation if they were hired before 10/01/86 and have been continuously employed since.

Leave accruals for EMS employees were amended through the Meet & Confer Agreement between the City of Austin and the Austin/Travis County EMS Employees Association on October 1, 2008

## Appendix A: Leave Maximums for City Employees

Effective FY 2010-2011

Employee Group	Leave Maximums	Vacation Hours	Sick Leave Hours
Executive	Maximum Balance	400	Unlimited
	Max Paid at Separation	240	720*
Regular Non-Civil Service	Maximum Balance	400	Unlimited
	Max Paid at Separation	240	720*
Regular EMS 48 Hours per Week	Maximum Balance	515	Unlimited
	Max Paid at Separation	309	926*
Regular EMS 42 Hours per Week	Maximum Balance	445	Unlimited
	Max Paid at Separation	270	756*
Regular EMS 40 Hours per Week	Maximum Balance	400	Unlimited
	Max Paid at Separation	240	720*

Note: Vacation leave and sick leave are accrued 24 pay periods in the calendar year.

\* Sick leave is paid to employees on separation if they were hired before 10/01/86, and have been continuously employed since.

Leave accruals for EMS employees were amended through the Meet & Confer Agreement between the City of Austin and the Austin/Travis County EMS Employees Association on October 1, 2008

**See also: Appendix A: Leave Accrual for City Employees (related chart)**

## Key Personnel Policy Facts at a Glance

### Pay and Benefits

#### **Compensatory Time** - accrual

Employees may accrue up to 120 hours of compensatory time.

Eligibility: Non-exempt employees

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#### **Court Leave** (paid)

Granted for the purpose of appearing as a juror, witnesses, or other official participant where the employee is not a party to the proceedings.

Eligibility: All employees except non-exempt temporaries

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#### **Emergency Leave** (paid)

Up to three consecutive days for death in the immediate family. See definition below.\*

Eligibility: Regular and probationary employees

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#### **Exception Vacation** - accrual

Regular employees can accrue up to 160 hours; EMS refer to department schedule.

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#### **FMLA Leave (Family and Medical Leave Act)**

The Family Medical Leave Act (FMLA) entitles eligible employees to take job-protected, unpaid leave for specific qualifying family, medical and/or military support needs with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

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#### **Holidays**

Official Holidays and how the Christmas holidays are observed.

Maximum hours paid for a holiday is 8 hours.

Eligibility: All regular and probationary employees

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#### **Immediate Family** (definition)\*

Parents, husband, wife, domestic partner child, sisters, brothers, grandparents, grandchildren, parents and grandparents of the employee's spouse, and any relative living in the same household with the employee.

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#### **Leave of Absence** - time units

Approval of Department Director required for 30 days or less; Approval of City Manager or designee for more than 30 days. More than one year may not be renewed.

Page 35

#### **Military Leave** (paid)

Maximum of 15 days per year.

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#### **Overtime**

Non-exempt employees are eligible for overtime as required by law, but generally for working more than 40 hours per week. Exempt employees are not eligible for overtime.

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#### **Personal Holidays**

Must be used in calendar year and taken after completion of probationary period.

Eligibility: Regular employees

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## Key Personnel Policy Facts at a Glance (continued)

### Resignation

Employee should provide 10 working days notice to resign in good standing.  
Resignation may be withdrawn within 48 hours.

Page 18

### Sick Leave

- ~ Unlimited amount may be accrued.
  - ~ Can be taken in quarter-hour increments.
  - ~ Accrued 24 out of 26 pay periods.
  - ~ For personal illness or incapacity or for caring for immediate family member who is ill or incapacitated.
  - ~ Department may require proof of proper use.
- Eligibility: Can be used once accrued.

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Appendix A

### Vacation Leave

- ~ Can be taken in quarter-hour increments.
  - ~ Accrued 24 out of 26 pay periods per year.
  - ~ Maximum a 40-hour employee can accrue is 400 hours.
- Eligibility: Regular (non-probationary) employees

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Appendix A

## Performance Counseling - Discipline - Complaints

### Performance Counseling Options

Initial counseling, Written documentation, Reassignment, Demotion, Termination.

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### Disciplinary Options

Oral reprimand, Written reprimand, Disciplinary probation, Suspension, Dismissal.

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### Grievance Options

~ General Grievance:

Employee complaint submitted through the department chain of command within five days of the issue or incident. Other deadlines must be followed.

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~ Personnel Action Grievance:

For Disciplinary Probation, Denial of Promotion, Demotion, Suspension, or Termination of a regular employee. Initially must be filed within 20 working days of the action and other deadlines followed.

Page 48

~ Discrimination Grievance:

Employee complaint of harassment or discrimination based on race, creed, color, national origin, sex, age, religion, veteran status, sexual orientation or disability, including an individual's AIDS or HIV status, should be reported to the Department Director, Assistant Director, or Human Resources Director as soon as possible.

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## **Personnel Policy Amendments since 1996**

**Chapter A applies to Non-Civil Service Personnel; Chapter B applies to Civil Service Personnel**

1. City Council Meeting on May 23, 1996 - Agenda Item No. 34, Chapters A and B  
Approve revisions to Personnel Policies.
2. City Council Meeting on April 16, 1998 - Agenda Item No. 43, Chapter A  
Establish Serious Injury Supplement (SIS) benefit.
3. City Council Meeting on September 28, 2000 - Agenda Item No. 38, Chapter A  
Amend Service Incentive Pay.
4. City Council Meeting on December 6, 2001 - Agenda Item No. 15, Chapters A and B  
Establish Military Pay Supplement for qualified employees called to active duty.
5. City Council Meeting on December 6, 2001 - Agenda Item No. 16, Chapters A and B  
Enhance vacation leave accrual rates.
6. City Council Meeting on July 11, 2002 - Agenda Item No. 50, Chapter A  
Establish leave accrual rates for Emergency Medical Services (EMS) employees working a 42-hour workweek.
7. City Council Meeting on September 26, 2002 - Agenda Item No. 22, Chapters A and B  
Increase number of personal holidays from one to two per year.
8. City Council Meeting on September 13, 2004 - Agenda Item No. 11
  - A. Increase leave accrual rates for non-Civil Service employees, Chapter A
  - B. Establish leave accrual rates for Civil Service employees working a 56-hour workweek, Chapter B
9. City Council Meeting on March 3, 2005 - Agenda Item No. 10, Chapter A  
Authorize APD employees assigned by Chief of Police to perform security coordinator duties at APD headquarters to carry weapons while on duty.
10. City Council Meeting on September 12, 2005 - Agenda Item No. 7, Chapter A
  - A. Authorize alcohol and drug testing for EMS service employees assigned to StarFlight.
  - B. Implement Enhanced Service Incentive Pay for 2005.
11. City Council Meeting on November 17, 2005 - Agenda Item No. 12, Chapters A and B  
Declare Christmas Eve an official City Holiday every year.
12. City Council Meeting on September 11, 2006 - Agenda Item No. 7
  - A. Increase vacation accrual rates for non-Civil Service employees, Chapter A
  - B. Change definition of domestic partner. Delete charter reference in Health Related Benefits (Sec. III.B.2), Chapters A and B
  - C. Establish longevity pay and increase vacation accrual rates for peace officers of the Public Safety and Emergency Management Department (PSEM), Chapter A
13. City Council Meeting on November 30, 2006 - Agenda Item No. 14, Chapter A  
Implement Enhanced Service Incentive Pay for 2006.

## **Personnel Policy Amendments since 1996**

**Chapter A applies to Non-Civil Service Personnel; Chapter B applies to Civil Service Personnel**

(continued)

- 14.** City Council Meeting on September 10, 2007 - Agenda Item No. 1, Chapter A
  - A. Amend Military Leave Supplement by deleting reference to Operation Enduring Freedom and by deleting the limitation of 52 weeks.
  - B. Amend Paid Leave by deleting reference to Exception Vacation for the Emergency Medical Services Department.
  - C. Amend Conditions of Work to include a new section on Alcohol and Drug Policy for Certain Employees of the Department of Public Safety and Emergency Management.
  - D. Amend Leave Accrual for City Employees (Appendix) to reflect changes for employees of the Department of Public Safety and Emergency Management.
  
- 15.** City Council Meeting on September 8, 2008 - Agenda Item No. 009, Chapter A  
Amend Service Incentive Pay and Service Incentive Pay Enhancement to provide flexibility in the percentage paid, based on the budget.
  
- 16.** City Council Meeting on October 1, 2009 - Agenda Item No. 14, Chapter A  
Include gender identity as it relates to condition of work/discrimination, reporting violations, and discrimination grievances.
  
- 17.** City Council Meeting on June 20, 2013 – Agenda Item No. 15, Chapter A  
Amend the Personnel Policies on FMLA to include the establishment of a new Parental Leave Benefit and insertion of language that aligns City policy with federally mandated Military Exigency and Military Caregiver requirements.
  
- 18.** City Council Meeting on August 22, 2013 – Agenda Item No. 18, Chapter A  
Amend the Personnel Policies on FMLA providing non-civil service employees with a leave bank.
  
- 19.** City Council Meeting on February 13, 2014 – Agenda Item No. 14, Chapter A  
Amend the Personnel Policies, Chapter A, Section III. B.1. (9) a and b, to enhance the amount of Serious Injury Supplement benefits provided to non-sworn employees that are injured on the job.

## NOTES

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