

	MARICOPA COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURES	
	Subject MODIFIED DUTY	Policy Number GD-16 Effective Date 01-03-24
Related Information Americans with Disabilities Act (ADA) Americans with Disabilities Act Amendments Act (ADAAA) ARS 23-371 EA-18, <i>Law Enforcement Extra Duty and Off-Duty Employment</i> GC-1, <i>Leaves and Absences</i> GC-19, <i>Dress and Appearance</i> Maricopa County Policy HR 2429	Supersedes GD-16 (05-06-20)	

PURPOSE

The purpose of this Office Policy is to establish guidelines and procedures for the temporary placement of an employee on modified duty when it has been determined an employee is temporarily unable to perform the essential functions of their classification.

POLICY

It is the policy of the Office to ensure modified duty is used to retain Office employees in the workforce who have temporary medical restrictions which limit their ability to perform the essential functions of the classification they occupy; and to return the employee to regular duty as soon as possible.

DEFINITIONS

Classification: One or more similar positions which are grouped together based on the same or similar sets of duties and given the same Job Profile. Examples include, but are not limited to, Administrative/Operations Specialist, Management Analyst, and Detention Officer Sergeant.

Essential Functions: Those fundamental, not marginal tasks which are considered indispensable to the successful completion of a job's duties. Functions are considered essential when employees are required to perform them and when their elimination would fundamentally alter the job. A function which is rarely performed may nevertheless be essential.

Extra-Duty Law Enforcement Employment: Approved extra-duty internal sworn assignments and shifts which result in sworn personnel receiving compensation from the Maricopa County payroll system where the use of law enforcement authority would normally be anticipated. This scheduled employment would occur outside of the sworn employee's regular on-duty work schedule. Extra-duty employment includes but is not limited to providing coverage for various internal Office enforcement shifts, special detail assignments, extradition transport assignments, and specified Maricopa County sporting events or venues. Only sworn personnel are authorized to work in this capacity.

Medical Restriction: Any physical or mental limitation, documented by a licensed health care provider, which results from an employee's injury, illness, pregnancy, or disability.

Modified Duty: A temporary adjustment or change to the essential functions of an employee's current classification, or the temporary assignment of an employee to other duties, to accommodate the employee's medical restrictions.

Off-Duty Law Enforcement Employment: Approved employment which results in sworn personnel receiving compensation that is not from the Maricopa County payroll system where the use of law enforcement authority would normally be anticipated. This scheduled employment would occur outside of the sworn employee's regular on-duty work schedule. Only sworn personnel are authorized to work in this capacity.

Peace Officer Capacity: A sworn or reserve deputy performing law enforcement duties.

Regular Duty: Work performed without medical restrictions, consistent with the essential functions established for the employee's classification.

Temporary Medical Restriction: A temporary medical restriction is considered any physical or mental limitation, documented by a licensed health care provider which results from an employee's injury, illness, pregnancy, or disability and may require temporary modified duty.

PROCEDURES

1. **Temporary Medical Restriction:** When an employee has a temporary medical restriction, the Office shall make a reasonable effort to provide an accommodation. If an accommodation cannot be made in the classification occupied by the employee, they will be given an opportunity to temporarily perform other work, if available, within their capabilities. A temporary medical restriction is determined by a licensed health care provider, when an employee is temporarily unable to perform the essential functions of their classification and temporary placement of an employee on modified duty is required, procedures shall be followed, as specified in this Office Policy.
2. **Preliminary Notification/Documentation Requirements for Temporary Modified Duty:** Absent exigent circumstances, the employee shall normally notify their immediate supervisor the same day they are advised by their health care provider that modified duty may be required and shall submit a *Request for Temporary Modified Duty* memorandum as specified in this Office Policy. Documentation from the health care provider shall be provided by the employee to the Leave Management Section (LMS) as soon as reasonably possible, but no later than the beginning of the first scheduled return-to-work day. Based upon the employees' verbal report of their medical restrictions, the supervisor may require that the documentation be received by the LMS in advance of the first scheduled return-to-work day to allow ample time for the accommodation to be considered. Failure to provide the written documentation, as requested, may delay the employee's return to work and/or result in disciplinary action. Documentation must include the following:
 - A. The health care provider's name, address, and telephone number;
 - B. The date the employee was seen by the health care provider;
 - C. A recommendation of modified duty, stating which essential function(s) of their classification the employee is unable to perform;
 - D. The specific restrictions imposed, as a result of the employee's medical restrictions;
 - E. The follow-up appointment dates which will be required; and
 - F. The anticipated date of return to regular duty.
3. **Request for Temporary Modified Duty:** An employee who has medical restrictions which limit their ability to perform the essential functions of their classification shall request and complete a *Request for Temporary Modified Duty* memorandum, regardless of whether the restrictions limit their ability to function in their present assignment. For example, sworn or detention personnel who are presently assigned to office duties, and who suffer from a medical restriction which would temporarily preclude them from using the

stairs, while able to function in their present Office assignment; however, they would not be able to perform the essential functions of their classification and would therefore be required to request modified duty.

- A. Upon the receipt of an employee's written *Request for Temporary Modified Duty* memorandum:
1. The immediate supervisor may grant the employees modified duty request for up to a total of seven cumulative calendar days, as a result of the medical restriction. Requests for modified duty in excess of seven calendar days shall be forwarded to the division commander for approval.
 2. The division commander or designee may grant or retain an employee on modified duty as a result of the same medical restriction for up to a total of 30 cumulative calendar days, including any time already taken. Alternatively, the division commander may consult with or defer to the LMS regarding requests for modified duty of 30 or fewer days.
 3. Initial modified duty requests, or requests to extend previously approved modified duty in excess of a total of 30 cumulative calendar days for the same medical restriction, shall be forwarded to the LMS for review, approval, and management of the case.
 4. If modified duty is not practical at the employee's current assignment, a request for modified duty shall be referred to the LMS to determine whether modified duty can be provided at another location within the Office. If practical, the employee shall be given modified duty within the limits of the employee's capabilities at the other location. If this is not practical, or if no accommodation can be provided at another location, the employee will be placed on leave, as specified in Office Policy GC-1, *Leaves and Absences*.
- B. The LMS may consider the recommendations of the employee's health care provider or initiate a request seeking clarifying information when needed to understand the nature and duration of the employee's medical restriction(s).
- C. The division commander or designee will periodically review the non-medical records of all personnel within their command who are on modified duty and may request that the LMS review the medical circumstances related to the modified duty. When necessary, the LMS will work with the employee to obtain updated or clarifying medical documentation which supports a continuing need for modified duty.
- D. In all instances, supervisors shall forward any accompanying medical documentation provided by an employee in support of a request for modified duty directly to the LMS.
- E. Supervisors shall be held accountable for granting modified duty in excess of the limits specified in this Section.

4. **Employee Restrictions:**

- A. An employee is not eligible to return to work on modified duty until their health care provider documents that the employee is medically able to return to work, and what, if any, work restrictions apply.
- B. An employee who is on modified duty and medically restricted from working in a peace officer capacity shall not be permitted to work extra-duty or off-duty law enforcement as specified in Office Policy EA-18, *Law Enforcement Extra Duty and Off-Duty Employment*. The ability for an employee to work extra duty law enforcement employment while on modified duty shall be dependent upon the medical restriction **not** prohibiting working in a peace officer capacity, and

the availability of a work position that could accommodate the non-prohibiting medical restriction(s).

5. **Industrial Injury:** An employee with an industrial injury will have priority in placement into a modified duty assignment or location over an employee with a non-industrial injury or illness.
6. **Modified Duty Timeframe:** Employees are eligible to be considered for modified duty for a total period of up to six months per medical restriction. The period of time counted towards the six months of modified duty begins the day the employee's health care provider first releases the employee to return to work with medical restrictions, or 90 calendar days following the day the employee first takes leave as a result of the medical circumstances which led to modified duty (whichever comes first). A temporary employee's term of employment cannot be extended by placement on modified duty.
7. **Employee Status While on Modified Duty:**
 - A. Employees on modified duty will continue to occupy the same classification held prior to the imposition of medical restrictions and will retain their same hourly rate. This will apply regardless of whether the employee has been given a completely different assignment.
 - B. If the employee is placed on modified duty in another Maricopa County department, the Office shall continue to pay the employee's salary for up to 90 calendar days. The modified duty shall be reevaluated by the LMS to determine whether continuation is appropriate.
 - C. Employees whose modified duty results in reduced work hours will be treated according to the provisions of Office Policy GC-1, *Leaves and Absences*.
 - D. Time taken off from work due to medical circumstances leading to modified duty may be designated as Earned Paid Sick Time, as specified in A.R.S. 23-371 et seq. and/or as leave under the Family Medical Leave Act (FMLA).
8. **Employee Responsibilities:** The responsibilities of an employee on modified duty include, but are not limited to, the following:
 - A. Providing the information specified in this Office Policy;
 - B. Updating the supervisor and the LMS no later than the beginning of the employee's next scheduled workday regarding any changes in the restrictions, the duration of restrictions, or any future medical appointments;
 - C. Furnishing documentation to the LMS from the employee's health care provider listing any changes in the restrictions, the duration of the restrictions, or any future medical appointments; and
 - D. Working collaboratively with their supervisor and the LMS to identify accommodations that would enable the employee to safely perform the essential functions of their classification.
9. **Supervisor Responsibilities:** Responsibilities of the employee's supervisor include, but are not limited to, the following:
 - A. Monitoring the frequency and duration that an employee within their purview has been assigned to modified duty;

- B. Monitoring the employee's performance on modified duty on a regular basis. If the employee is placed in another Office assignment or location, the supervisor of the new assignment or location is responsible for the employee, as follows:
 - 1. If the employee is placed on modified duty for less than 30 days, the original supervisor shall remain responsible for completing the employee's supervisor notes and EIS reviews;
 - 2. If the employee is placed on modified duty in excess of 30 days, a chain of command request shall be completed in Praxis, temporarily transferring EIS purview to the supervisor at the new assignment. The supervisor at the new assignment shall be responsible for completing the employee's supervisor notes and EIS reviews; or
 - 3. If the employee is placed on modified duty in another Maricopa County department, the employee's direct supervisor shall be in contact with the temporary supervisor for supervisor notes and shall make notes accordingly.
 - C. In an expedient manner advising the LMS of the current status of employees on modified duty if known;
 - D. Ensuring that no direct supervisory contact is initiated with the employee's health care provider;
 - E. Ensuring that employees' requests for modified duty provide the required information, as specified in this Office Policy;
 - F. Ensuring that an employee's medical information and records are treated as strictly confidential and forwarded to the LMS for retention in the authorized leave management file; and
 - G. Consulting with the LMS if there is reason to believe the employee is not expected to return to regular duty, or the employee's restrictions have been deemed permanent by their health care provider.
10. **Leave Management Section Responsibilities:** Responsibilities of the LMS include, but are not limited to, the following:
- A. Determining, after consulting with the employee's supervisor, whether the employee's current work assignment can be modified to meet their medical restrictions;
 - B. Coordinating modified duty work in another assignment or classification, if not practical in the employee's current assignment or classification; if available;
 - C. Providing the employee with a copy of the essential functions of the employee's classification or modified duty assignment, when necessary, for review by their health care provider;
 - D. Ensuring that an employee's medical information and records are treated confidentially. The records shall not be placed in the employee's personnel file, but secured separately with access limited to designated persons;
 - E. Consulting with the employee's supervisor to evaluate whether modified duty should be continued or extended when there is an expectation for the employee to return to regular duty; and
 - F. Engaging the employee in an interactive process pursuant to the Americans with Disabilities Act to consider non-temporary reasonable accommodations if the employee's injury or illness results in a

disability, or when learning the employee has permanent or indefinite restrictions that will prevent them from performing their essential functions.

11. **Employee Dress and Appearance:** An employee on modified duty shall wear appropriate attire or the uniform of the day, as specified in Office Policy GC-19, *Dress and Appearance*, unless an accommodation has been made due to their medical restrictions.
12. **Return to Regular Duty:** An employee approved by their health care provider to return to regular duty after being on modified duty shall notify their supervisor and the LMS no later than the beginning of their next scheduled shift. A health care provider's release must be forwarded to the LMS. The Office will, when possible, restore the employee to their previous or equivalent assignment. The employee's bureau chief is the final authority in determining employee assignments based on availability and Office needs.
13. **Permanent Medical Restrictions:** When advised by the employee's health care provider that the employee can no longer perform their essential functions due to permanent medical restrictions, LMS shall make a reasonable attempt to accommodate the employee pursuant to the Americans with Disabilities Act (ADA), the Americans with Disabilities Act Amendments Act (ADAAA), and Maricopa County Policy HR2429-ADA/ADAAA Reasonable Accommodation for Applicants and Employees.