



PERSONNEL POLICY MANUAL

Adopted 04/07/04

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen Personnel Policy Manual

Table of Contents

Revised 12/2015

A. ACKNOWLEDGEMENT RECEIPT OF PERSONNEL POLICY MANUAL

B. FOREWARD

200 INTRODUCTION

- I. Purpose
- II. Policies and Procedures
 - A. Objectives
 - B. Responsibilities
 - C. Applicability
 - D. Distribution and Access
 - E. Manual Revision and Maintenance
- III. General Provisions
 - A. At Will Provisions
 - B. Equal Opportunity
 - C. Personnel Files

201 DEFINITIONS

- I. Purpose
 - A. Regular Full-Time Non-Exempt Employee
 - B. Regular Full-Time Exempt Employee
 - C. Regular Part-Time Employee
 - D. Temporary/Seasonal Employee
 - E. Introductory Employee
 - F. Retiree
 - G. Entity
 - H. Review Date
 - I. Employment Date
 - J. Manager
 - K. Department Director
 - L. Supervisor
 - M. Separation
 - N. Human Resources Department
 - O. Management Information Systems
 - P. Risk Management Department
 - Q. Weapons

City of Harlingen Personnel Policy Manual

Table of Contents

Revised 12/2015

202 VACANT POSITIONS

- I. Purpose
- II. Policies and Procedures
 - A. Vacancy Identification
 - B. Vacancy Announcement
 - C. Vacancy Application
 - D. Pre-employment Process
 - 1. Minimum Qualification Verification
 - 2. Applicant Evaluation
 - 3. Applicant Disqualification
 - 4. Nepotism
 - 5. Residency
 - 6. Screenings and Examinations
 - 7. Background Checks
 - E. Promotions
 - 1. Application
 - 2. Contacts
 - 3. Transfer Dates
 - 4. Promotion Initiation
 - 5. Temporary Positions
 - F. Lateral Transfers
 - 1. Application
 - 2. Contacts
 - 3. Transfer Dates
 - 4. Transfer Initiation
 - 5. Lateral Transfers
 - G. Demotions

203 INTRODUCTORY PERIOD

- I. Purpose
- II. Policies and Procedures
 - A. Introductory Period
 - 1. Non-Civil Service Employees
 - 2. Civil Service Employees
 - 3. Unsatisfactory Performance

City of Harlingen Personnel Policy Manual

Table of Contents

Revised 12/2015

4. Personnel Transactions

III. Appendices

- A. Employee Orientation Check Sheet
- B. Supervisory/Worksite Information.

204 OUTSIDE EMPLOYMENT

- I. Purpose
- II. Policies and Procedures
 - A. Conflict of Interest
 - B. Approval

205 COMPENSATION

- I. Purpose
- II. Objective
- III. Compensation and Classification Plan
- IV. Plan Administration

206 WAGE AND HOUR ADMINISTRATION

- I. Purpose
- II. Legal Requirements
 - A. Exempt Employees
 - B. Non-Exempt Employees
- III. Work Schedules
 - A. Reporting Time Worked
- IV. Paydays
 - A. Payroll Deductions
- V. Overtime
 - A. Eligibility
 - B. Non-Exempt Positions
 - C. Accumulation
 - D. Payment upon Termination
 - E. Record keeping
 - F. Prior Authorization Required Before Working Overtime
 - G. Use of Accrued Compensatory Time
- VI. Meal/Break Periods
- VII. On-Call Duty
 - A. Eligibility
 - B. Minimum Call-Back Time
- VIII. Travel Time

City of Harlingen Personnel Policy Manual

Table of Contents

Revised 12/2015

- IX. Timekeeping
- X. Appendix
 - A. Wage Deduction Authorization Agreement

207 PERFORMANCE MANAGEMENT

- I. Purpose

208 TUITION REIMBURSEMENT

- I. Purpose
- II. Policies and Procedures
 - A. Eligibility
 - B. Grades Required
 - C. Tuition Reimbursement
 - D. Reimbursement Procedures
- III. Appendix
 - A. Request for Tuition Reimbursement Form/Tuition Reimbursement Policy

209 COMPUTER POLICY

- I. Purpose
- II. Policies and Procedures
 - A. E-Mail
 - B. Network Security
 - C. Guidelines for Internet Use
 - D. Communications Via Computer
 - E. Security

210 LEAVE

- I. Purpose
- II. Policies and Procedures
 - A. Vacation
 - 1. Usage
 - 2. Scheduling
 - 3. Transfers, Promotions and Demotions
 - 4. Separation/Termination
 - 5. Rehire
 - 6. Full-time to Part-time
 - 7. Regular Part-time, Temporary and Seasonal Employees

City of Harlingen Personnel Policy Manual

Table of Contents

Revised 12/2015

- B. Sick Leave
 - 1. Full-time Employees
 - 2. Full-time to Part-time
 - 3. Regular Part-time, Temporary and Seasonal Employees
 - 4. Accumulation
 - 5. Well Pay Program
 - 6. Usage
 - 7. Care of Family Members
 - 8. Proof of Illness
 - 9. Illness While on Vacation
 - 10. Non-Civil Service Employees Separation/Termination Pay
- C. Use of Leave By Exempt Employees
- D. Extended Sick Leave
- E. Schedule of Holidays
 - 1. Official Holidays
 - 2. Regular Part-time, Temporary and Seasonal Employees
 - 3. Department Schedules
 - 4. Shift Schedules
- F. Qualified Leave
- G. Military Leave
 - 1. Zero to 120 Hours
 - 2. Duty Verification
- H. Bereavement Leave
- I. Jury/Court Duty
 - 1. Regular Pay
 - 2. Official City Business
 - 3. Personal/Private Business
- J. Administrative Leave
 - 1. With Pay
 - 2. Without Pay
- K. Unauthorized Leave
- L. Family and Medical Leave
- M. Discretionary Leave
- N. Natural Disasters and National Emergencies

City of Harlingen Personnel Policy Manual

Table of Contents

Revised 12/2015

III. Appendices

- A. Extended Sick Leave Request
- B. Sick Leave Donation Memo
- C. Extended Sick Leave Donation Form

211 DRESS CODE

- I. Purpose
- II. Policies and Procedures

212 FAMILY MEDICAL LEAVE

- I. Purpose
- II. Policies and Procedures
 - A. Serious Health Condition
 - B. Continuing Treatment
 - C. Other Employment
- III. Eligibility
- IV. Procedure for Requesting Leave
- V. Medical Certification
- VI. Reduced Work Schedule
- VII. Benefits Coverage During Leave
- VIII. Restoration to Employment Following Leave
- IX. Coordination with Other Programs
- X. Temporary Replacements
- XI. FLSA Considerations
- XII. Other Provisions
- XIII. Appendices
 - A. Designation Notice
 - B. Notice of Eligibility and Rights & Responsibilities
 - C. Certification of Health Care Provider for Employee's Serious Health Condition
 - D. Certification of Health Care Provider for Family Member's Serious Health Condition
 - E. Certification for Serious Injury or Illness of a Current Servicemember-for Military Family Leave
 - F. Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave
 - G. Certification of Qualifying Exigency for Military Leave

City of Harlingen Personnel Policy Manual

Table of Contents

Revised 12/2015

213 EMPLOYEE ASSISTANCE PROGRAM

- I. Purpose
- II. Policies and Procedures
 - A. Voluntary Self-Referral
 - B. Job Performance Referral

214 NONDISCIPLINARY SEPARATION

- I. Purpose
- II. Policies and Procedures
 - A. Resignation
 - B. Retirement
 - C. Incapacity- Non Civil Service Employees
 - 1. Work Related Incapacity
 - 2. Non-Work Related Incapacity
 - 3. Benefits During Incapacity
 - 4. Incapacity Determination
 - D. Long Term Absence/Termination
 - E. Layoffs
 - F. Military Separation

215 REINSTATEMENT

- I. Purpose
- II. Policies and Procedures
 - A. Laid-off Employees
 - B. Veterans
 - C. Eligibility for Reemployment

216 DISCIPLINE POLICY

- I. Purpose
- II. Policy
- III. Policy Goal
- IV. Application of Policy
 - A. Introductory Employees
 - B. Regular Employees
- V. Prohibited Activities

City of Harlingen Personnel Policy Manual

Table of Contents

Revised 12/2015

- VI. Immediate Discipline Action
- VII. Disciplinary Steps
 - A. Informal Discussion/Counseling
 - B. Employee Warning
 - C. Written Reprimand
 - D. Decision Making Leave
 - E. Suspension or Involuntary Demotion
 - F. Termination
- VIII. Rights Reserved
 - A. Opportunity To Respond
 - B. Review by Human Resources Director
 - C. At Will Provisions
- IX. Felonies and Misdemeanor
- X. No Right of Appeal
- XI. Appendices
 - A. Employee Warning
 - B. Written Reprimand
 - C. Suspension

217 GRIEVANCE POLICY

- I. Purpose
- II. Policy
- III. Grounds for Grievance
- IV. Grievant Protection
- V. Informal Grievance
- VI. Formal Grievance
- VII. Investigation Procedure
- VIII. Appendices
 - A. Grievance Form

218 SUBSTANCE ABUSE

- I. Purpose
- II. Policies and Procedures
 - A. Definitions
 - 1. "Safety Sensitive Function"

City of Harlingen

Personnel Policy Manual

Table of Contents

Revised 12/2015

2. "Illicit Drugs"
 3. "On the Job or On Duty"
 4. "Under the Influence of Illicit Drugs"
 5. "Under the Influence of Alcoholic Beverages"
 6. "Alcoholic Beverages"
 7. "Reasonable Suspicion"
 8. "Employee Assistance Program" (EAP)
 9. "Under the Influence of Illegal Inhalants"
 10. "Refusal to Submit to an Alcohol or Controlled Substance Test"
- B. Prohibited Conduct
1. Illicit Drugs
 2. Alcoholic Beverages
 3. Illegal Inhalants
 4. Reporting for Work
 5. Drug Related Paraphernalia
 6. On-Call Employees
 7. Off-Duty Conduct
- C. Permissive Use
1. Permissive Use of Prescribed and Over-the-Counter Drugs
 2. Permissive Use of Alcohol
- D. Drug/Alcohol Testing
- E. Substance Abuse Among Current Employees
1. Testing
 2. Observation
 3. Awareness
 4. Authorization
 5. Analysis
 6. Administrative Leave
 7. Disciplinary Action Procedure
- F. Pre-employment Testing
- G. Interdepartmental Promotions and Transfers
- H. Employee Assistance Program
1. EAP Availability
 2. Employee Protection
- I. Treatment Program Availability
- J. Random Testing of Certain City Employees
- K. Refusal To Comply
- L. Records Relating to Drug and Alcohol Testing
- M. Condition of Employment
- N. Alcohol and Drug Testing Pursuant to Department of Transportation Regulations
1. Prohibited Alcohol and Drug Use

City of Harlingen Personnel Policy Manual

Table of Contents

Revised 12/2015

-
- 2. Alcohol and Drug Tests Required
 - 3. Consequences of Positive Alcohol Test
 - 4. Alcohol Testing Procedure
 - 5. Drug Testing Procedure
 - 6. Drugs Tested For
 - 7. Results Interpretation
 - 8. Consequences of a Positive Drug Test
 - 9. Confidentiality
 - 10. Use of Law Enforcement Tests
 - O. Drug-Free Workplace
 - III. Appendices
 - A. Controlled Substance and/or Alcohol Test Authorization/ Consent Release Form
 - B. Request/Consent Form for Information from Previous Employer for Substance Abuse Testing Records
 - C. Parental Consent and Release Form
 - D. Reasonable Suspicion Observation Form

219 SEXUAL AND OTHER UNLAWFUL HARASSMENT

- I. Purpose
- II. Policies and Procedures
 - A. Definition
 - B. Other Forms of Prohibited Harassment
 - C. Complaint Review Procedures
 - 1. Reporting
 - 2. Investigation
 - 3. Administrative Leave
 - 4. Allegation Discussion
 - 5. Determination Filing
 - D. Department Director Action
 - 1. Disciplinary Action Decisions
 - 2. Department Head Respondents
 - 3. Sexual Harassment Prevention
 - E. Recordkeeping
- III. Appendices
 - A. Sexual and Other Unlawful Harassment Complaint Form

City of Harlingen Personnel Policy Manual

Table of Contents

Revised 12/2015

220 WORKPLACE SEARCHES

- I. Purpose
- II. Policies and Procedures

221 WORKPLACE VIOLENCE

- I. Purpose
- II. Policies and Procedures
 - A. Prohibited Conduct
 - B. Reporting Procedures
 - C. Emergency Situations
 - D. Enforcement

THIS PAGE INTENTIONALLY LEFT BLANK

CITY OF HARLINGEN
ACKNOWLEDGEMENT OF RECEIPT OF PERSONNEL POLICY MANUAL

I _____ certify and acknowledge the following:
(print name)

- I have received a copy of the City of Harlingen's Personnel Policy Manual revised on April 7, 2004. With the exception of the City's employment at-will policy, I understand that the policies, rules, and benefits described are subject to change or may be revised at any time. I agree that any conflicts or ambiguities in City policies, rules and benefits will be decided by the City Manager.
- I understand that the contents of this manual do not constitute an employment agreement or contract, but rather my employment with the City of Harlingen is on an at-will basis (except for those covered by Civil Service). This means that the employment relationship may be terminated at any time by either myself or the City of Harlingen with or without cause and with or without notice.
- I understand that it is my responsibility to read and comply with the policies contained in this Manual, as well as any revisions. I understand I should consult my supervisor, my Department Director and/or the Human Resources Department regarding any questions not answered in the manual. I also understand that the policies, rules and benefits in this Manual supersede all prior written and/or oral City policies.

Employee's Signature

City Representative

Date

Date

THIS PAGE INTENTIONALLY LEFT BLANK

<p style="text-align:center">CITY OF HARLINGEN PERSONNEL POLICY MANUAL</p>

FOREWORD

This manual (including any modifications) is prepared for informational and guideline purposes only and does not constitute a contract in any respect between the City and its employees. Employment with the City is at-will, and either the employee or employer may terminate the relationship at any time for any or no reason and with or without notice. The City Manager may remove, with or without cause, any employee of the City. This removal power is subject to any exceptions in the applicable provisions of the civil service laws for police and firefighters and the City Charter.

The City Manager may make non-substantive changes or amendments to these policies and procedures as deemed necessary for clarification and make exceptions when in the best interest of the **City, with the concurrence of the City Attorney**. All statements in this manual regarding the at-will status of City employees, or any benefits provided herein, shall control any contradictory statements by any other person, whether oral or written.

The at-will status of any employee may not be modified or rescinded by any oral or written statements by any person, including appointed or elected officials, any employee handbooks, employment applications, City of Harlingen memoranda, or other materials provided to employees in connection with their employment. Similarly, the City's policies and practices, with respect to any matter or any benefits now offered, may be terminated at any time and are not to be considered as creating any contractual obligation on the City's part.

Statements of specific grounds for termination set forth in this manual or in any other City documents are examples only, are not all-inclusive lists, and are not intended to restrict the City's right to terminate at will.

Completion of an introductory period and/or achieving "regular status" does not change an employee's status as an employee-at-will or in any way restrict the City's right to terminate such an employee or change the terms or conditions of employment.

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen

Personnel Policy Manual

200 Introduction

Revised 12/2015

I. PURPOSE

The purpose for these policies and procedures is to provide a uniform system of personnel administration throughout the city.

II. POLICIES AND PROCEDURES

In the event of any conflict between these policies and any City ordinance, City Charter, State or Federal law, the terms and conditions of that ordinance, charter, rule or law shall prevail. In the event of any conflict between these policies and procedures and any internal departmental rules, the personnel policies and procedures shall prevail. In the event of the amendment of any ordinance, rule or law incorporated in this document or upon which these provisions rely, these policies shall be deemed amended in conformance with those changes.

The issuance of this manual does not constitute a contract between the City and its employees.

A. OBJECTIVES

- To ensure that recruitment, selection, placement, promotion, retention and separation of City employees are based upon employee's qualifications and fitness, and are in compliance with Federal and State laws;
- To promote communication between Department Directors, supervisors and employees; and
- To ensure, protect and clarify the rights and responsibilities of employees.

B. RESPONSIBILITIES

The Manager has the general authority and responsibility to control all departments and divisions that may be created by the City Commission/HWWS Utility Board of Trustees and to supervise and direct all employees of the City. The exceptions to this authority are matters reserved to the City Commission by Charter provisions. The Manager may delegate authority and/or assign responsibility for personnel management as necessary.

The Human Resources Director shall advise and support management in all areas, including employee-management relations; introductory and career development; classification; compensation; benefits; retirement programs; and morale.

Department Directors are responsible for enforcing these policies and for cooperating with the Human Resources Director and his/her designee(s) on all matters pertinent to their organizational units. All employees have a responsibility and role in the implementation of these policies and procedures.

City of Harlingen

Personnel Policy Manual

200 Introduction

Revised 12/2015

C. APPLICABILITY

These policies and procedures apply to all City employees including the Waterworks System, except in the following circumstances:

- When policies and procedures are inconsistent with the proper application of the Local Government Code Chapter 143 of the State Firemen's and Policemen's Civil Service Law and standard operating procedures.
- When specific appointment and removal power is vested in the City Commission/HWWS Utility Board of Trustees by the City Charter for the position of Manager.
- For elected officials, members of appointed boards or commissions, persons employed under contract to supply professional and technical services, and personnel appointed to serve without pay.

D. DISTRIBUTION AND ACCESS

These policies and procedures will be distributed to all City employees.

E. MANUAL REVISION AND MAINTENANCE

The Human Resources Department is delegated the responsibility for developing, administering, interpreting and maintaining these policies and procedures. The Manager may make non-substantive changes or amendments to these policies and procedures as deemed necessary for clarification and make exceptions when in the best interest of the City.

All employees are responsible for updating the personnel policy manual in their custody.

Copies of new and revised policies and procedures will be given to each department.

III. GENERAL PROVISIONS

The general provisions include at-will, equal employment opportunity, and personnel file provisions.

A. AT WILL PROVISIONS

All employees of the City of Harlingen, except for those covered by Civil Service, are at-will employees and have no expectation of continued employment, promotion or any other personnel benefit including but not limited to, sick leave, vacation leave, compensatory time, group health and life insurance except as required by federal and state law.

City of Harlingen

Personnel Policy Manual

200 Introduction

Revised 12/2015

B. EQUAL OPPORTUNITY

Equal employment opportunity shall be assured in the City service and affirmative action provided in its administration. Discrimination against any person in recruitment, examination, appointment, introductory period, promotion, retention, discipline, or any other aspect of personnel administration because of race, color, age, sex, national origin, religion, disability, or genetic information is prohibited. It is also prohibited to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Discrimination on the basis of age, sex, or physical disability is prohibited, except where specific age, sex or physical requirements are a bona fide occupational qualification necessary to the proper and efficient operation of the City.

C. PERSONNEL FILES

The Human Resources Department shall maintain the official personnel files for all employees.

It is important that accurate, current records be maintained for benefits and employment purposes. Therefore, all employees are required to notify Human Resources immediately if there is any change in relevant personal or employment information such as changes in address, phone numbers, marital status, emergency contact, insurance beneficiary, number of dependents or legal name.

All information contained in the employee's personnel file is the property of the City and is not available for review by anyone other than the employee, his or her supervisor, Department Director, City Manager, City Attorney and their staff, and the Human Resources department and as otherwise required by law. Employees may examine their personnel files; however, these documents may not be removed from the City's premises or photocopied without the specific authorization of the Human Resources Director.

If an employee believes that information in their personnel file is incorrect, he/she can request to place a written statement of disagreement in the file.

The City of Harlingen considers falsification of personnel records to be a serious offense and upon discovery can lead to disciplinary action up to and including termination.

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen Personnel Policy Manual

201 Definitions

Revised 12/2015

I. PURPOSE

The following definitions apply to this policy unless the context clearly indicates otherwise.

A. REGULAR FULL-TIME NON-EXEMPT EMPLOYEE

An employee who works forty (40) hours or more per week and who has successfully completed his/her introductory period and is not exempt from the provisions of the Fair Labor Standards Act (is eligible for overtime pay) and who receives full benefits as provided by the City.

B. REGULAR FULL-TIME EXEMPT EMPLOYEE

An employee who is salaried and may or may not work more than forty (40) hours per week, has successfully completed his/her introductory period, is exempt from the provisions of the Fair Labor Standards Act (not eligible for overtime pay) and who receives full benefits as provided by the City.

C. REGULAR PART-TIME EMPLOYEE

An employee hired on the basis of less than 30 hours a week. Part-time employees do not receive benefits such as: vacation, sick leave, health insurance, etc.

D. TEMPORARY/SEASONAL EMPLOYEE

Employee(s) hired, part-time or full-time, for a specific period of time, with an anticipated date of termination indicated at the time of appointment and who are not entitled to benefits. This type of employment may be renewed.

E. INTRODUCTORY EMPLOYEE

An employee who is hired in a non-temporary position who has not completed his/her introductory period of employment with the City.

F. RETIREE

A retiree of the City of Harlingen is a Civil Service or non-Civil Service employee who has ceased working from his/her active vocation or profession with the City upon meeting eligibility requirements of either the Texas Municipal Retirement System or Firemen's Relief and Retirement Fund and who is currently receiving retirement pension funds from either of the said retirement systems.

G. ENTITY

The City of Harlingen or Harlingen Waterworks System.

H. REVIEW DATE

The date of an employee's last promotion, demotion or department transfer date.

City of Harlingen

Personnel Policy Manual

201 Definitions

Revised 12/2015

I. EMPLOYMENT DATE

The date on which an employee begins service with the City.

J. MANAGER

Reference to City Manager or Waterworks General Manager shall apply, as the context requires.

K. DEPARTMENT DIRECTOR

An employee who is responsible for the administration of a department(s).

L. SUPERVISOR

An employee responsible for directing the work of others.

M. SEPARATION

Any termination of employment. Termination may include death, discharge, lay-off, seasonal employment, resignation, and retirement or work completion.

N. HUMAN RESOURCES DEPARTMENT

Reference to the Human Resources Department for the City or Waterworks System shall apply, as the context requires.

O. MANAGEMENT INFORMATION SYSTEMS

Reference to the Management Information Systems Department/Director also applies to the Information Technology (IT) Department/Director for the Waterworks System.

P. RISK MANAGEMENT DEPARTMENT

Reference to the Risk Management Department applies to the Safety Office and/or the Human Resources Department for the Waterworks System.

Q. WEAPONS

Weapons include, but are not limited to the following: any firearm, air pistol, air rifle, any switchblade knife, dagger, 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, mace, or any other weapon or device intended for use or in its manner of use is used as a tool of actual or threatened violence (e.g., chains, brass knuckles, bats or handles, tire iron, tools).

City of Harlingen Personnel Policy Manual

202 Vacant Positions

Revised 04/2004

I. PURPOSE

This policy describes procedures for filling vacant positions.

II. POLICIES AND PROCEDURES

This policy describes procedures to be used by the City of Harlingen to fill vacant positions within the organization. The procedures cover hiring, promoting, transferring and demoting. Exceptions must be signed/approved by the Manager.

A. VACANCY IDENTIFICATION

Department Directors shall notify Human Resources when a vacancy occurs (or is imminent) by submitting a Request for Employee Form.

B. VACANCY ANNOUNCEMENT

Human Resources shall publicly announce, by appropriate means, all City vacancies. Job opportunity announcements will be prepared, posted and distributed only when there is or will soon be a vacancy. Each announcement, insofar as practical, shall specify the title, salary and nature of the position available, the required qualifications, and essential functions. The announcements for city employees only will be posted for five (5) working days. Announcements to the public may specify a deadline for application (normally five to ten days after initial public posting). This period may be shortened or extended, depending upon the circumstances. In high-turnover or critical-skill situations which make application deadlines unrealistic, announcements can be posted as "open until filled." Human Resources shall maintain a bulletin board of announced vacancies for public inspection.

C. VACANCY APPLICATION

Applications for initial employment, promotion or transfer shall be submitted as specified in the job opportunity announcement or as prescribed by Human Resources. Only applications officially received in the prescribed manner shall be considered. All information submitted is subject to verification.

D. PRE-EMPLOYMENT PROCESS

The hiring department and Human Resources shall work through the application process jointly to ensure that applicants are treated equally. The departmental application processing steps are explained below:

City of Harlingen

Personnel Policy Manual

202 Vacant Positions

Revised 04/2004

1. Minimum Qualification Verification

After the application deadline, Human Resources will review the applications and eliminate those that do not meet the minimum qualifications specified in the job announcement. Only applications meeting the minimum qualifications will be sent to the interviewing department. Exceptions may be granted upon request by the Department Director depending on recruiting circumstances.

2. Applicant Evaluation

The hiring Department Director or supervisor will review the applications and Human Resources will schedule interviews. Interviewers shall complete an Applicant Referral Form following each interview process. After all reviews have been completed, the applications and Applicant Referral Form(s) shall be returned to Human Resources indicating the supervisor's choices in rank order.

3. Applicant Disqualification

Applicants may be disqualified from consideration for any of the following reasons:

- a. They do not meet the necessary position-performance qualifications or any State or Federal requirements.
- b. They make false statements on the application form or supplements.
- c. They commit or attempt to commit a fraudulent act at any stage of the selection process.
- d. They are in violation of the City of Harlingen Substance Abuse Policy.
- e. They are not legally permitted to work in the United States due to their alien status.

4. Nepotism

Employment may be restricted when an applicant or current employee is related by blood (consanguinity) or marriage (affinity) to another City employee or official.

- a. Nepotism restrictions are as follows:
 - (1) An individual related within the third degree of consanguinity or second degree of affinity to a member of the City Commission, or the Manager, shall not be appointed to serve or be employed in any position in the City.
 - (2) An individual related within the third degree of consanguinity or second degree of affinity to a Department Director shall not be hired into a position within that department.
 - (3) An individual shall not be hired into any position directly supervised by someone to whom he/she is related within the third degree of consanguinity or second degree of affinity.

City of Harlingen

Personnel Policy Manual

202 Vacant Positions

Revised 04/2004

(4) An individual shall not be hired into any position if the appointment would create a close working relationship within the department or functional area that could affect the health, safety or welfare of the employees; or the efficient departmental operation; or the best interests of the City.

- b. Relatives employed as of the effective date of this rule are exempt.
- c. Should a current employee become a relative of another employee and fall under the provisions of this rule, one of the employees must transfer to another area, resign or face termination. This rule applies to full-time, part-time, regular and temporary positions.

5. Residency

Residency requirements or reasonable response time requirements may be established for certain positions. These requirements will depend on the duties of the position.

6. Screenings and Examinations

All persons selected for initial appointment shall undergo a drug screening test. Some job requirements may require a thorough medical examination.

Each of these tests will be conducted at the City's expense and in a manner prescribed by Risk Management. Employment shall be contingent upon successful completion of the required screening(s) and medical examination(s).

7. Background Checks

The City of Harlingen may conduct criminal history records checks on all new employees, including those in part-time, temporary and selected volunteer positions. Applicants selected may be offered provisional employment pending results. If applicants have not provided accurate information regarding their criminal history, they may be dismissed from employment.

NOTE: A criminal conviction will not necessarily disqualify an applicant for employment. The conviction will be reviewed against the job requirements.

E. PROMOTIONS

Promotions are position changes to classes with higher maximum salaries. Qualified employees may apply for promotion to vacant positions when positions are advertised or posted.

Employees in their introductory period are not eligible for promotion. Exceptions may be granted by the Manager when such promotion is in the best interest of the City.

The following process shall be utilized for promotions:

1. Application

An employee applying for any position must complete an employment application.

City of Harlingen

Personnel Policy Manual

202 Vacant Positions

Revised 04/2004

2. **Contacts**

Qualified employees referred to the hiring department shall be contacted by the Human Resources department for interview arrangements.

3. **Transfer Dates**

If an employee is selected to fill the vacancy, the hiring department shall contact the employee's current department to establish a mutually agreed-upon transfer date. The department may require the employee to give two weeks' notice. Promotions should be effective the first day of a payroll period.

4. **Promotion Initiation**

The gaining department will initiate an Employee Action Form to promote the employee.

5. **Temporary Positions**

Temporary promotions may be authorized to ensure the proper performance of City functions if a position is vacant or the regular incumbent is absent. Temporary promotions are intended to be temporary and shall not be used to circumvent the normal selection process. The employee(s) involved shall not acquire any permanent status or rights to the positions to which they are temporarily promoted.

F. LATERAL TRANSFERS

A lateral transfer is the assignment of an employee from one position to another position in the same salary range. Qualified employees may apply for transfers to vacant positions when the positions are advertised or posted.

Employees in their introductory period are not eligible for lateral transfers. Exceptions may be granted by the Manager when such lateral transfer is in the best interest of the City.

The transfer process is described below:

1. **Application**

Employees must complete an employment application.

2. **Contacts**

Qualified employees referred to the hiring department will be contacted by the Human Resources department for interview arrangements.

3. **Transfer Dates**

If an employee is selected to fill the vacancy, the hiring department shall contact the employee's current department to establish a mutually agreed-upon transfer date. The department may require the employee to give two weeks' notice. Transfers must be effective the first day of a payroll period.

City of Harlingen Personnel Policy Manual

202 Vacant Positions

Revised 04/2004

4. Transfer Initiation

The gaining department will initiate an Employee Action Form to transfer the employee.

5. Lateral Transfers

Lateral transfers may be implemented at any time for administrative convenience.

G. DEMOTIONS

A demotion occurs when an employee moves from a position in one job classification to another position which is classified in a lower pay grade/range. A downgrade may be employee or employer initiated.

Employees in their introductory period are not eligible for voluntary demotion.

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen Personnel Policy Manual

203 Introductory Period

Revised 04/2004

I. PURPOSE

To ensure that all newly hired and promoted employees meet acceptable performance and other standards during their introductory period in order to be retained as employees of the city.

II. POLICIES AND PROCEDURES

This policy establishes introductory period requirements for all City departments.

It is the purpose of the introductory period to provide a time by which both employee and the City can decide whether to continue regular employment. Introductory employees and City supervisors should therefore utilize this time to examine all aspects of the job and the respective conduct of the employee and the City, as well as actual performance of duties and/or choice of action.

A. INTRODUCTORY PERIOD

Every person initially appointed to or promoted in City service under a regular appointment shall successfully complete an introductory period.

1. Non-Civil Service Employees

Employees shall serve up to a 90 day introductory period.

2. Civil Service Employees

Employees shall serve an introductory period in accordance with state laws.

3. Unsatisfactory Performance

Unsatisfactory introductory -period performance can occur at any time within the introductory period. Unsatisfactory introductory period performance is not part of the disciplinary process.

- a. Prior to dismissal of an introductory employee, a Department Director shall consult with Human Resources Director or his/her designee. Employees who are in "introductory period" status do not have grievance rights.
- b. A promoted employee with unsuccessful introductory period performance may return to his/her former job type, provided a position is available.

4. Personnel Transactions

Newly hired employees are not eligible for promotion, lateral transfer or voluntary demotion during the introductory period. Exceptions may be granted by the Manager when such promotion, lateral transfer or voluntary demotion is in the best interest of the City.

City of Harlingen Personnel Policy Manual

203 Introductory Period

Revised 04/2004

III. APPENDICES

- A. Employee Orientation Check Sheet
- B. Supervisory/Worksite Information

CITY OF HARLINGEN EMPLOYEE ORIENTATION CHECK SHEET

The following named new employee has been given an introduction orientation on the subjects specified:

EMPLOYEE: _____ DEPARTMENT: _____

**EXPLANATION OF BENEFITS
AND PROCEDURES**

Benefits

- _____ Health/dental insurance programs
- _____ Optional vision care plan
- _____ Life insurance programs
- _____ Medicare participation
- _____ Worker's Compensation
- _____ Retirement programs
- _____ Vacation
- _____ Sick leave
- _____ Holidays
- _____ Qualified Leave
- _____ Well Pay

Personnel Regulations

- _____ Availability of rules
- _____ Disciplinary action
- _____ Grievance

Pay System

- _____ Pay procedure
- _____ Deductions (effective dates)

Other Information

- _____ Employee Assistance Program
- _____ Tuition reimbursement
- _____ Deferred compensation
- _____ NAFTA Credit Union
- _____ Service Awards
- _____ Discount programs
- _____ United Way
- _____ Bulletin Boards

Performance Planning Evaluation

- _____ Purpose and length
- _____ Status during introductory period

Promotional Procedures:

- _____ Job announcements
- _____ EEO policy

Employee Date

Person Performing Orientation Date

City of Harlingen Personnel Policy Manual

204 Outside Employment

Revised 04/2004

I. PURPOSE

This procedure describes the City of Harlingen's policy regarding outside employment of City employees.

II. POLICIES AND PROCEDURES

A. CONFLICT OF INTEREST

Employees may not engage in outside employment, including self-employment, where such employment would constitute a conflict of interest or would affect the employee's performance for the City.

B. APPROVAL

Outside employment must be reported in writing, and approved by, the Department Director and the Manager.

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen Personnel Policy Manual

205 Compensation

Revised 9/2007

I. PURPOSE

The City of Harlingen intends to provide an equitable compensation and classification plan for all employees. Merit is the key factor determining salary increases. The plan is concerned with providing a compensation system to encourage the development of each employee and is designed to reward outstanding performance. All employees will be compensated fairly regardless of race, color, religion, sex, sexual orientation, national origin, age, disability, veteran status or disability status.

II. OBJECTIVES

The objectives of the City of Harlingen compensation and classification program are:

- To motivate, attract and retain quality employees with the payment of financial compensation that is commensurate with the individual's responsibility and contribution for the accomplishment of the City's goals.
- To clearly define the duties and responsibilities of each position through written job descriptions.
- To establish and maintain proper and equitable wage differentials between each position.
- To establish and maintain a sound and realistic competitive salary structure.
- To establish policies and procedures that will insure uniformity and equity in administration of salary issues.
- To provide incentives for superior performance.
- To provide an easily administered pay system that can be understood and accepted by the employees.

III COMPENSATION AND CLASSIFICATION PLAN

Job classification process. Each job is classified solely on the basis of the position's written job description. This objective process is based upon the position requirements, duties and responsibilities stated in the job description. Recognizing that each job has an inherent minimum and maximum value, jobs are classified without consideration of any particular person who might hold or apply for the position. No position of employment within the City may be filled unless the job has been first classified and assigned to its appropriate Grade based upon a written job description.

City of Harlingen

Personnel Policy Manual

205 Compensation

Revised 9/2007

The role of the job description. The job description establishes the minimum qualifications for employment in a job. Every job in the City will have a written job description using the format prescribed by the Human Resource office. The job description is to be considered a working document, to be reviewed periodically and changed as needed. It is not meant to be restrictive or all inclusive but is meant to describe the essential functions of the job. The job description:

- a) Serves as the main basis for the job evaluation of the job into a pay Grade.
- b) Serves as the main basis for the performance appraisal of the employee.
- c) Defines what is expected of the employee performing the job.
- d) Permits comparison to other jobs in salary surveys.

The City Manager will be responsible for approving and signing off on each job description and establishing an effective date for the job description.

Factors determining compensation. The City Manager has determined that the level of compensation appropriate for each job depends upon certain compensable factors. These factors have been rated by the City Manager and have been assigned a range of point values. Each job will be evaluated in light of these factors and scored. Jobs will then be placed within their appropriate Grade on the basis of total points scored. The compensable factors are:

- a) Knowledge and Training
- b) Initiative and Complexity
- c) Accountability
- d) Management Skills
- e) Cooperation and Contact
- f) Physical Effort
- g) Guidance Received
- h) Working Conditions

Job evaluation. Job evaluation is the process used to determine the relative worth of all jobs in the City. The evaluation considers the job in light of the compensable factors. This method requires evaluating the requirements of the job, assuming its competent performance, and not who is in the job. Each job in the city will be evaluated upon the basis of a written job description and classified in a grade level, which determines the salary range applicable to the job.

As new jobs are created or if a Department Head makes a request for reclassification of an existing position, a job evaluation committee will evaluate or re-evaluate the job or jobs. The job evaluation committee should consist of three department heads selected by the Human Resource Director. The committee will recommend a grade placement to the City Manager for consideration. The decision of the City Manager in placing a position in a grade level is final.

City of Harlingen

Personnel Policy Manual

205 Compensation

Revised 9/2007

Process of job evaluation. Each job evaluation utilizes:

- a) The Compensable Factor Evaluation forms;
- b) The Job Evaluation Point Table; and
- c) The Grade Conversion Chart.

A compensable factor evaluation form has been prepared for each compensable factor and is maintained by the Human Resource office. An evaluation of the job is made using each form so that all compensable factors are considered. As each compensable factor is considered, the job evaluation committee must select the factor rating on each form, which most closely applies to the job. This rating is made solely on the basis of the written job description and without considering any particular person.

The second step of the evaluation process utilizes the Job Evaluation Point Table, which is prepared and maintained by the Human Resource office. In this step, the job evaluation point table is used to assign a specific amount of points to each factor rating level. The points assigned to each compensable factor are then totaled to determine the job's overall point totals.

The final step of the process uses the Grade Conversion Chart, which is prepared and maintained, by the Human Resource office. The grade conversion chart utilizes the job's overall point total to determine the placement of each job in the appropriate grade. By placing the job within its appropriate Grade, the range of compensation applicable to the job is established.

Job classification table. A Job Classification Table, which reflects the classification and applicable Grade of each job of the City, is prepared and maintained by the Human Resource office. The table is amended from time to time as necessary to reflect the classification of new jobs or any reclassification of existing jobs.

How compensation established. The compensation paid each employee is determined by:

- a) the job's classification Grade; and
- b) the employee's qualifications and performance.

Grade Structure. The city has established a job classification structure consisting of Grades 1 through 22. Each Grade has been assigned a base annual compensation range, which establishes the minimum and maximum compensation applicable to the Grade. When a job is classified within a particular Grade, the compensation range applicable to the Grade establishes the minimum and maximum levels of base annual compensation, which may be paid to an employee holding the job.

The compensation ranges applicable to each range have been established upon the basis of a survey of salaries paid by comparable cities and similar jobs in the Harlingen market. For the pur-

City of Harlingen

Personnel Policy Manual

205 Compensation

Revised 9/2007

poses of establishing compensation ranges particular reliance was placed upon certain “benchmark jobs” which are commonly found in surveyed markets and which are generally similar in terms of qualifications and duties.

The current grade structure and salary ranges are prepared and maintained by the Human Resource office. The salary ranges should be reviewed annually, and revised as necessary to reflect changing competitive positions, economic conditions and compensation objectives.

Starting salary. In all cases, the starting salary shall be at least the minimum of the Grade range. When justified by the prospective employee’s qualifications and experience the starting salary may exceed the minimum compensation applicable to the job. All starting salaries shall be coordinated with the Human Resource Director. A starting salary above 15 percent over the minimum shall require the approval of the City Manager. The starting salary above the minimum shall be justified in writing by the hiring manager and placed in the personnel file.

- a) If a prospective employee meets the minimum qualifications of the pay range, then the hiring manager should offer the minimum salary range of the pay range.
- b) If the prospective employee meets the minimum qualifications plus some job related experience or education beyond the minimum qualifications for the job, then one to ten percent over the minimum pay range might be considered.
- c) If the prospective employee meets minimum qualifications plus substantial job related experience or education over and above the minimum qualifications for the job, then the offer of eleven to fifteen percent over the minimum might be considered.
- d) If there are extenuating circumstances the City Manager can approve a starting pay for a position anywhere between the minimum and maximum pay ranges.

Performance Appraisal. Each employee will be subjected to an annual written performance appraisal. This performance appraisal will form the primary basis for adjustments to the salary of the employee. The performance appraisal should be made within thirty days of the anniversary of the employee’s anniversary date. Supervisors will utilize one of the performance appraisal manuals to evaluate the employee.

Performance based salary increases. Each employee whose base annual compensation is less than the maximum base annual compensation applicable to the job is eligible for an annual merit increase. Merit increases are given following the employee’s annual performance appraisal and reward acceptable to outstanding work. An employee’s whose performance is rated at less than acceptable is ineligible for a merit increase.

Merit increases are given as a percentage of the employee’s base salary. The amount of the percentage increase for which an employee is eligible will vary, with the smallest increase being given to those whose rating is merely acceptable and the greatest increase given to those with a rating of outstanding. The amount of the increase is indicated by a performance appraisal conver-

City of Harlingen Personnel Policy Manual

205 Compensation

Revised 9/2007

sion chart which indicates the appropriate percentage increase applicable to the employee's performance rating. The performance appraisal conversion chart is prepared and updated annually based on the labor market and economic factors.

Salary increases on promotion. A promotion occurs when an employee moves from one job to a new job, which is in a higher classification Grade. Movement between jobs within the same grade is lateral transfers and not promotions. To recognize and reward the assumption of responsibilities associated with a job in a higher classification, the base annual salary of a promoted employee must be increased to the minimum base compensation applicable to the new job or by 10 percent over the compensation previously paid for the old job, whichever is greater.

Adjustments to maintain minimum compensation levels. No employee may be paid less than the minimum compensation applicable to the employee's job. At the beginning of each fiscal year, any employee paid less than the applicable minimum shall receive an increase to the required minimum compensation.

Exceptions to maximum and minimum compensation levels. With approval of the City Manager, an employee may be paid less than the applicable minimum compensation under the following circumstances:

- a) When a period of training is required to demonstrate the employee's ability to perform the duties, for a period not normally in excess of six months; and
- b) When the employee is temporarily assigned to a position in a higher grade, normally not to exceed one month.

Unless first approved by the City Manager, no employee may be paid in excess of the maximum compensation applicable to the employee's job.

Other adjustments to compensation. Recognizing that other adjustments to compensation may be necessary to correct situations adversely affecting the City's competitive position in the employment market or to address situations, which adversely affect internal equity; the City Manager may authorize other appropriate salary adjustments.

IV

PLAN ADMINISTRATION

The City Manager and the Human Resource office will be responsible for the administration of the compensation and classification system. The Human Resource office will be responsible for insuring that all job descriptions are kept current and that performance appraisals are conducted at least annually.

City of Harlingen Personnel Policy Manual

205 Compensation

Revised 9/2007

The City Manager will be responsible for recommending changes in the compensation and classification policy. The Human Resource Director will be responsible insuring that all evaluations are done on a timely basis and appointing all job evaluation committees. The City Manager will be responsible for recommending salary increase budgets, recommending salary administration guidelines and insuring that the salary administration guidelines are implemented and periodically updated.

V

POLICE AND FIRE CIVIL SERVICE, AIRPORT AND WATERWORKS

The provisions of this plan are not applicable to the probationary or classified members of the Police and Fire Departments who are below the rank of Department Head and whose employment, compensation or discharge is subject to the civil service provisions of Chapter 143, Texas Local Government Code. These personnel are cover by a separate compensation system.

The provisions of this plan are not applicable to Employees of Valley International Airport and to Waterworks employees.

VI

EFFECTIVE DATES

The City Manager will be implementing portions of this merit based pay system throughout the 2007 fiscal year. The plan should be fully implemented beginning October 1, 2007.

VII

APPENDICIES

City of Harlingen Personnel Policy Manual

206 Wage & Hour Administration

Revised 12/2015

I. PURPOSE

To establish a wage and hour administration policy in compliance with the Fair Labor Standards Act (FLSA).

II. LEGAL REQUIREMENTS

A. Exempt Employees

Exempt status is based on the duties and responsibilities of an individual position, the required educational level and the salary received. Exempt employees are not entitled to overtime pay or compensatory time.

Exempt employees are those who are not covered by applicable wage and hour laws. Exempt employees are expected to put in the hours necessary to complete their assignments in a timely and quality basis.

B. Non-Exempt Employees

Nonexempt employees are paid on an hourly basis and are entitled to overtime pay at one and one-half times their "regular hourly rate" for any hours they work in excess of 40 hours during the workweek. Regular hourly rate is defined as the calculated average hourly rate for that pay period. For example, the regular hourly rate must include shift differentials, "on call" pay and multiple rates of pay, if applicable.

III. WORK SCHEDULES

The normal work schedule for most City employees is 8 hours a day, 5 days a week. Supervisors will advise employees of the times their schedules will normally begin and end. Employee needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week.

Flexible scheduling, or flextime, is available in some cases for non-exempt employees to allow employees to vary their starting and ending times each day within established limits. Flextime may be approved if a mutually workable schedule can be negotiated with the supervisor involved. However, such issues as employee staffing needs, the employee's performance, and the nature of the job will be considered before approval of flextime.

City of Harlingen

Personnel Policy Manual

206 Wage & Hour Administration

Revised 12/2015

A. Reporting Time Worked

It is the responsibility of each employee to sign his or her time card/sheet each pay period to certify the accuracy of all time recorded, including overtime. Employees using a computer based time clock will certify to the accuracy of time recorded by approving their time in electronic time clock system. The supervisor will review and initial the time record before submitting it for processing. If corrections or modifications need to be made to the employee's time record, both the employee and the supervisor must verify the accuracy of the changes and initial the time record. Altering, falsifying, tampering with time records, or recording another employee in or out will likely result in immediate disciplinary action, up to and including termination of employment.

IV. PAYDAYS

All employees are paid biweekly. Each paycheck will normally include earnings for all work performed through the end of the previous payroll period.

In the event that a regularly scheduled payday falls on a day off such as a holiday, employees will normally receive pay on the last day of work before the regularly scheduled payday.

If a payday falls during an employee's vacation, the employee's paycheck will be available as per department guidelines. Employees will receive an itemized statement of wages when the City makes direct deposits.

A. Payroll Deductions

In addition to their paycheck, employees will receive a statement showing gross pay, deductions and net pay. Some payroll deductions are required by law, *e.g.*, federal income tax withholding, Social Security (FICA), and court ordered child support. Employees may elect to have certain other deductions made from their pay (*e.g.*, insurance premiums) if they authorize the deductions in writing. Deductions other than those specifically authorized by the Manager are not permitted.

In the unlikely event that there is an error in the amount of a deduction, or any other payroll error, the employee should let his/her supervisor know as soon as possible. At the end of each calendar year, employees will be given a Wage and Tax Statement Form (W-2). This statement summarizes income and deductions for the year.

City of Harlingen

Personnel Policy Manual

206 Wage & Hour Administration

Revised 12/2015

V. OVERTIME

When operating requirements or other needs cannot be met during regular working hours, employees may be scheduled to work overtime hours. All overtime work must receive the appropriate supervisor's prior authorization.

A. Eligibility

Overtime pay or compensatory time will be paid to non-exempt employees for each overtime hour worked.

B. Non-Exempt Positions

Overtime pay is based on **actual** hours worked. This means that time off on sick leave, vacation leave, or any other absence, whether paid or unpaid, will not be considered hours worked for purposes of performing overtime calculations.

Overtime will be paid at the rate of one and one-half (1.5) times the employee's regular hourly rate. Compensatory time will be credited at the rate of one and one-half hour (1.5) per overtime hour worked.

C. Accumulation

Non-exempt employee will be allowed to accumulate up to 80 hours of compensatory time, unless a lower maximum is set by department policy, based on operational demands. Once a non-exempt employee has reached his/her accrual cap, any overtime worked will be paid for in cash rather than in compensatory time accrual.

D. Payment upon termination

Non-exempt employees will be paid for accumulated, unused compensatory time upon termination, regardless of the reason for termination.

E. Record keeping

Department Directors are responsible for accurate recording of compensatory time in the payroll system for their non-exempt employees.

City of Harlingen Personnel Policy Manual

206 Wage & Hour Administration

Revised 12/2015

F. Prior Authorization Required Before Working Overtime

All nonexempt employees must receive the appropriate supervisor's **prior authorization before** performing any overtime work. This means employees may not begin work prior to the start of their scheduled work day, and may not continue working beyond the end of their scheduled workday, without prior authorization from the appropriate supervisor. Similarly, employees may not work through their lunch break without prior authorization from the appropriate supervisor. On the employee's time card/sheet, the appropriate supervisor must also approve any overtime before the time card/sheet is submitted for processing and payment. Nonexempt employees who work overtime without receiving proper authorization will be subject to disciplinary action, up to and including possible termination of employment.

Overtime is budgeted annually. The City Manager must approve all overtime that exceeds a department's budgeted amount.

G. Use of Accrued Compensatory Time

Employees requesting use of compensatory time will be allowed to take the compensatory time within a reasonable period after making the request. If use of requested compensatory time would be disruptive, the Department Director may elect to pay the employee in lieu of approving the requested time off. In fact, the City may, at any time, elect to pay an employee for any or all of the employee's accrued compensatory time. The City may also require employees to take time off in order to reduce their accrued compensatory time.

VI. MEAL/BREAK PERIODS

A 30-minute to 1-hour allowance for meal breaks is customarily granted to regular full-time employees. This meal period is not considered work time if employees are completely relieved of their work duties.

If employees must continue their work duties through the meal or break period, this work time must be approved in advance by a supervisor and recorded as work time. Approved break periods of 20 minutes or less will be considered hours worked.

VII. ON-CALL DUTY

On-call assignments are typically not compensable if:

- ◆ Employees can be contacted by a pager or telephone; and

City of Harlingen

Personnel Policy Manual

206 Wage & Hour Administration

Revised 12/2015

- ◆ Have free (personal) use of the time while waiting for an assignment.

A. Eligibility

Non-exempt employees designated by their supervisors as scheduled to serve on-call for a specific period of time.

B. Minimum Callback Time

Non-exempt employees called back to work after their shift has ended, will be paid for one hour at their regular rate of pay or for the actual time worked, whichever is greater. Time worked immediately after regularly scheduled working hours at the request or approval of the supervisor will not be considered call-back and will be paid at the regular rate of pay until overtime requirements are met.

Employees exempt from overtime are not eligible for compensation under the provisions of this policy.

The City provides for after-hours service needs when required by allowing some departmental operations to designate nonexempt employees to be on-call. Certain exempt personnel may also be designated as on-call. Employees designated to be on-call are expected to respond to departmental after-hour service needs as required by procedures established by each Department where on-call personnel are utilized. Exempt employees are not entitled to extra compensation for on-call or call-back time.

Return to work provisions- When an employee is designated to be available for on-call and subject to call back, he/she is free to pursue personal activities but may be required to respond to call back (via paging, phone, or radio) within designated guidelines set by the Department. This on-call status is not considered time worked and is not compensable unless the employee responds to a call back. All employees designated to be on-call are expected to be fit (mentally and physically) to accomplish services needed within the time frame required. An employee is considered on-call only when approved by his/her supervisor in accordance with procedures established by his/her department.

Departments may establish guidelines for varying levels of response to call-back situations depending upon the nature and importance of services to be completed.

City of Harlingen Personnel Policy Manual

206 Wage & Hour Administration

Revised 12/2015

VIII. TRAVEL TIME

Travel time during regular work hours is compensable for non-exempt employees. Travel time, which is outside of regular working hours, is not compensable, unless the employee is performing work approved by supervisor.

IX. TIMEKEEPING

Federal and State laws require the City to keep an accurate record of the time worked by all non-exempt employees. Accordingly, accurately recording time worked is the responsibility of every nonexempt employee. Time worked is all the time actually spent on the job performing assigned duties. Nonexempt employees must accurately record the time they begin and end their workday, as well as the beginning and ending time of each meal period. Nonexempt employees may not begin working prior to their scheduled start time without prior approval from their supervisor. They must also record the beginning and ending time of any split shift, break or departure from work for personal reasons. Overtime work must **always** be approved **before** it is performed.

It is the employee's responsibility to sign his or her time sheet each pay period to certify the accuracy of all time recorded. The supervisor will review and then initial the time record before submitting it for payroll processing. If corrections or modifications need to be made to the time record, both the employee and the supervisor must verify the accuracy of the changes and initial the time record. Altering, falsifying, tampering with time records, or recording another employee in or out will likely result in immediate disciplinary action, up to and including termination of employment.

X. APPENDIX

A. Wage Deduction Authorization Agreement

**CITY OF HARLINGEN
WAGE DEDUCTION AUTHORIZATION AGREEMENT**

I _____ understand and agree that my employer, the City of Harlingen, may deduct money from my pay from time to time for reasons that fall into the following categories:

1. My share of the premiums for the City's group medical plan;
2. Any contributions I may make into a retirement or pension plan sponsored, controlled or managed by the City of Harlingen;
3. If I receive an overpayment of wages for any reason, repayment of such overpayments to the City;
4. My share of the premiums for all voluntary insurance or voluntary products;
5. The cost to the City of personal long distance calls I may make on the City's phones or on the City's accounts, of personal faxes sent by me using the City's equipment or the City's accounts, or of non work-related access to the Internet or other computer networks by me using the City's equipment or accounts;
6. The cost of repairing or replacing any of the City's supplies, materials, equipment, money or other property that I may damage (other than normal wear and tear), lose, fail to return or take without appropriate authorization from the City during my employment;
7. The cost of uniforms and/or of cleaning the uniforms; and
8. If I take paid vacation or sick leave in advance of the date I would normally be entitled to it and I separate from the City before accruing time to cover such advance leave, the value of such leave taken in advance that is not so covered;

I agree that the City of Harlingen may deduct money from my pay under the above circumstances or any other situations which result in me owing money to the City.

Employee Signature

City Representative

Date

Date

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen

Personnel Policy Manual

207 Performance Management

Revised 12/2015

I. PURPOSE

Each entity (i.e. City and HWWS) will refer to their own performance management process under separate cover.

The City evaluates non-Directors performance based on its June 1999 Performance Planning/Evaluation Manual.

The City evaluates Directors using the Department Director evaluation form.

The Harlingen Waterworks System evaluates performance based on its June 2000 Evaluation System.

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen Personnel Policy Manual

208 Tuition Reimbursement

Revised 12/2006

I. PURPOSE

To establish a policy for reimbursement of tuition and related expenses for eligible courses.

II. POLICIES AND PROCEDURES

City of Harlingen's regular full-time employees are eligible to apply for reimbursement for tuition, books and related fees for eligible courses including on-site, on-line, or correspondence courses.

A. ELIGIBILITY

To apply for reimbursement, City of Harlingen employees must have completed at least one year of full time employment and have a current evaluation that meets or exceeds overall performance standards. In order for a course to be eligible for reimbursement, it must be from an accredited college, university, technical or vocational school and be related to the employee's current position or a position listed in the city's position classification system.

The Human Resources Director will review each reimbursement request to determine eligibility.

Job-related seminars, workshops or other courses, which are short term are ineligible for tuition reimbursement. Short term courses should be funded through a department's training fund and applied for through the employee's respective department.

Tuition Fee Schedules at state-supported colleges and universities will be used as official guidelines in determining eligible fee rates.

B. GRADES REQUIRED

An employee must successfully complete course(s) stipulated in their application by receiving a grade of "C" or better, or passing, for undergraduate course(s), "B" or better, or passing for graduate course(s) is required. If an employee drops the course or does not receive a "C" or better, or passing for undergraduate courses or "B" or better, or passing for graduate courses, it will be the responsibility of the employee to make up the course at their expense. The employee will be ineligible for further participation in the City's Tuition Reimbursement program until he/she makes up the course.

C. TUITION REIMBURSEMENT

Reimbursement shall be for tuition, eligible fees and required textbooks. The City will participate in these costs up to a maximum of \$250.00 per course with a total FY maximum of \$750.00 per employee. Program participation will be contingent upon the availability of funds.

Course times and schedules that interfere with daily work schedules must be approved by the Department Director **prior to registering for the class**. Changes in work schedules to fit class schedules must comply with the needs of the department and the City. This policy in no way guarantees time off or schedule rearrangement.

City of Harlingen

Personnel Policy Manual

208 Tuition Reimbursement

Revised 12/2006

If an employee wishes to secure his/her GED, the City will pay the base fee. This will be limited to two (2) tests per fiscal year.

D. REIMBURSEMENT PROCEDURES

To secure reimbursement under the Tuition Reimbursement Program, employees must:

- Submit a Tuition Reimbursement Application approved by their supervisor and Director. (Appendix A)
- Attach a copy of the fee receipt(s) to the Tuition Reimbursement Application,
- Submit the Tuition Reimbursement Application and corresponding fee receipts to the Human Resources Department **no later than ten (10) days after registration.**

If approved by the Human Resources Department, the request for reimbursement will be forwarded to the Finance Department for further processing and payment.

Upon completion of the employee's coursework, the employee must submit a copy of their grade report (for the class for which reimbursement was requested), to the Human Resources Department.

Employees who leave City employment within twelve (12) months of receiving assistance (due to voluntary or involuntary termination), shall reimburse the City all tuition reimbursement monies paid to them within the past twelve months of their separation date.

Employees are required to reimburse the City if the course is failed or dropped.

As a participant of the Tuition Reimbursement Program, the employee authorizes the City to deduct tuition reimbursement owed from his/her paycheck or any other final payments due the employee. The employee also understands that, if sufficient funds are not available to satisfy the tuition reimbursement owed to the City, the employee will pay the pending balance by personal check, cash, or money order.

III. APPENDIX

A. Request for Tuition Reimbursement Form

TUITION REIMBURSEMENT APPLICATION

INSTRUCTIONS FOR USING THIS FORM:

- Fill out Section 1. Attach a copy of the fee receipt(s) to this form and give it to your supervisor.
- Section 2 will be completed and approved/disapproved by supervisor and Department Director. If approved, all paperwork is then forwarded to Human Resources (no later than 10 days after registration).
- If approved, request for reimbursement to the employee will be submitted to the Finance Department.

*****Upon completion of the class, a copy of your grade sheet should be sent to Human Resources.*****

SECTION 1. PERSONAL/COURSE INFORMATION

Name _____ SSN _____ Degree Plan _____
Current Position Title _____ Dept/Div _____ Supervisor _____
School Name _____ Semester _____
Course Title(s) / Cost
(1) _____ / \$ _____
(2) _____ / \$ _____
(3) _____ / \$ _____
Total Reimbursement Requested This Semester: \$ _____

I certify that I have not received any assistance (see #6 on reverse side) for the amount I am requesting to be reimbursed and that I do not qualify to be reimbursed for these expenses from any other source during this fiscal year. (Maximum allowed is \$250 per course and a total Fiscal Year maximum of \$750 per employee).

Employee Signature

SECTION 2. DEPARTMENTAL APPROVAL

I _____ **approve** _____ **disapprove** reimbursement for this course(s).

Supervisor Signature / Date

Department Director Signature / Date

SECTION 3. FOR HUMAN RESOURCES USE

Grade(s): (1) _____ (2) _____ (3) _____

Reimbursement:

_____ **Approved**-Amount of this reimbursement \$ _____ Reimbursement FYTD \$ _____
_____ **Disapproved** -No reimbursement until failing subject is retaken and proof of grade submitted.

Human Resources Director Approval / Date

Date Forwarded to Finance _____ **By** _____

CITY OF HARLINGEN

Tuition Reimbursement Policy

Purpose

To provide an educational reimbursement program for employees in order to encourage personal and professional growth. The completion of a course or attainment of a degree does not in any way obligate the City to move the employee to a higher pay range or different classification; however, such additional qualifications will be considered during evaluation of the employee's qualifications when opportunities for advancement occur.

Eligibility

All regular, full-time employees who have worked for the City at least one (1) year are eligible for educational reimbursement. The courses must be taken at an accredited college, university, or technical school.

General Provisions

1. Reimbursement shall be for tuition, eligible fees and required textbooks. The City will participate in these costs up to a maximum of \$250.00 per course with a total FY maximum of \$750.00.
2. Employee must apply within 10 days of registration in order to get approval.
3. Employee will be reimbursed soon after the approved application is submitted to Human Resources and forwarded to the Finance Department. If employee does not received a "C" or better, it will be the responsibility of the employee to make up the course. The employee will be ineligible for City participation until he/she makes up the course.
4. Employee must be employed by the City at the time of reimbursement unless absent through no fault of the employee (i.e. layoff, military service).
5. Any employee who receives "Tuition Reimbursement" and leaves City employment within twelve months of receiving the Tuition Reimbursement (due to voluntary or involuntary termination), shall repay the City all Tuition Reimbursement paid to them within the twelve months prior to actual date of termination.
6. Assistance from other sources such as scholarships, grants, or subsidy programs (i.e. G.I. Bill) must be disclosed and will be deducted from total associated costs first before reimbursement is made.
7. Basic certifications, short courses, and other training sessions fall under Department Training Programs and are not covered by this program.
8. Course times and schedules that interfere with daily work routines must be approved by the Department Director. Any change needed in work time in order to fit class schedules must first comply with the needs of the department and the city. This policy in no way guarantees someone time off or schedule rearrangement.
9. If an employee wishes to get his GED, the City will pay the base fee. This will be limited to two (2) tests per person.

City of Harlingen Personnel Policy Manual

209 Computer Policy

Revised 04/2004

I. PURPOSE

To define the parameters within which the City of Harlingen computers may be used. This Computer Policy applies to all City employees.

II. POLICIES AND PROCEDURES

It is the City's policy to maintain and monitor all computer systems, computer hardware, software, Internet access, and Intranet access in the City of Harlingen.

1. All users of the City computer network including Internet access are responsible for complying with all Local, State, and Federal laws.
2. Anyone wishing to access the network and computer system on that network must receive a User ID from the Management Information Systems Department. This User ID is to be used only by the person assigned to the User ID and no one else.
3. Any unauthorized use by any person using a User ID is strictly prohibited and subject to disciplinary action.
4. If a user creates any liability on behalf of the City due to inappropriate use of the network, the employee agrees to indemnify and hold the City harmless, should it be necessary for the City to defend itself against such actions engaged in by the user.
5. Deletion, examination, copying or modification of files and or data belonging to other users without their prior consent is prohibited.
6. Once a user is advised that he or she is to cease certain activities, he or she must stop that activity at once.
7. The use of all computer hardware, software, and network by City employees on City owned or leased equipment is to be for City business only.
8. It is a violation of this policy to engage in an unauthorized, deliberate action that damages or disrupts the computing system, alters its normal performance, or causes it to malfunction.
9. No software may be installed on any City owned or leased computer without prior written approval by the Management Information Systems Department and without being registered to the City of Harlingen.

City of Harlingen Personnel Policy Manual

209 Computer Policy

Revised 04/2004

Violations of any of the above restrictions may result in disciplinary actions up to and including termination.

A. E-MAIL

1. The electronic mail system is provided by the City to assist in the conduct of business within the City.
2. The electronic mail system hardware is City property. All messages composed, sent or received on the electronic mail system are and remain the property of the City of Harlingen.
3. No communication may be transmitted via the electronic mail system using any offensive, disruptive, discriminatory or harassing language or other communications. Communications are considered offensive if they contain sexual implications, racial slurs, derogatory or unwelcome gender-specific comments, or other comments that offensively addresses someone's age, sexual orientation, religious or political beliefs, national origin, or disability, or any other protected category.
4. The electronic mail system shall not be used to send (upload) or receive (download) copyrighted materials, and any other unauthorized materials, without prior authorization.
5. To ensure proper use of the City's e-mail system, the city will monitor employee's e-mail. By this policy, employees are on notice that the City reserves the right to review, audit, intercept, access and disclose all messages created, received or sent over the e-mail system for any purpose. The contents of electronic mail may be received and disclosed without the consent of the originator. Electronic mail messages are public information.
6. No electronic mail is confidential.
7. This policy also applies to instant messaging (IM).

Violations of any of the above restrictions will likely result in disciplinary action up to and including termination.

B. NETWORK SECURITY

1. The following actions are prohibited:
 - a. Use of systems and/or networks in attempts to gain unauthorized access to remote systems.
 - b. Decryption of system or user passwords.
 - c. The copying of system files.

City of Harlingen Personnel Policy Manual

209 Computer Policy

Revised 04/2004

- d. The copying of copyrighted materials, such as third-party software, without the express written permission of the owner or the proper license.
- e. Intentional attempts to "crash" Network systems or programs.
- f. Any attempts to secure a higher level of privilege on Network systems.
- g. The willful introduction of computer "viruses" or other disruptive/destructive programs into the City's network is strictly prohibited.
- h. Any employee bringing in diskettes, CD's, DVD's, or any other media to upload/download files into PC's or networks must first clear such items through MIS (IT for HWWS employees).
- i. The City maintains the right to remove diskette drives, CD-ROM drives, or DVD drives at any time.

Violations of any of the above restrictions will likely result in disciplinary action up to and including termination.

C. GUIDELINES FOR INTERNET USE

- 1. Before an employee may access and use the Internet, he/she must request and obtain the approval of the employee's Department Director or designee and the Management Information Services Director through one-on-one orientation for all new/reassigned employees and must agree to an understanding of the Policy. This policy is in addition to any other departmental computer guidelines that might be in place.
- 2. The Internet may only be used for work related information, research and communication.
- 3. The Internet may not be used for personal gain or advancement of individual views, solicitation of non-City business or to disrupt the operation of the City network or the networks of other users.

Violations of any of the above provisions may result in disciplinary action up to and including termination.

D. COMMUNICATIONS VIA COMPUTER

Whenever a computer is used for communicating, the following guidelines must be followed:

- a. An employee is responsible for any and all communications he or she sends through the Internet.
- b. Messages on the Internet must have the employee's name attached. No messages shall be transmitted with an assumed name.

City of Harlingen Personnel Policy Manual

209 Computer Policy

Revised 04/2004

- c. Users may not attempt to obscure the origin of any messages.
- d. No abusive, profane, offensive, discriminatory, or harassing communications shall be transmitted on the Internet or any system within the City.
- e. In order to prevent computer viruses from being transmitted through the City's computer system, no one shall download any software without the authorization of the MIS Department (or IT Department for HWS employees). Downloads shall be done only through or under the scrutiny of the MIS Department.
- f. Downloads of music, whether to the PC, or onto any media associated with City equipment are strictly prohibited Citywide subject to disciplinary action up to and including immediate termination.
- g. Employees using the Internet shall not transmit any copyrighted materials belonging to entities other than the City of Harlingen unless prior authorization of the originator has been obtained.
- h. Users are not permitted to copy, transfer, rename, add, or delete information or programs belonging to other users unless given express permission to do so by the owner.
- i. Users are not permitted to invoke an attached executable (*.exe) file on an e-mail received from anyone, whether known or unknown to the recipient, at any time without specific approval of their respective Department Director or the MIS Director.
- j. Electronic media/computers may not be used for any illegal purposes or in any way that violates City policy or is contrary to the City's best interests.

Violations of any of the aforementioned guidelines may result in disciplinary action up to and including termination.

E. SECURITY

1. The City of Harlingen will monitor all messages and files on the computer system as deemed necessary and appropriate. All messages created, sent or received over the Internet or any other computer system including but not limited to electronic mail, instant messaging (IM), software and the like are the property of the City of Harlingen, and are public information. Employees are not entitled to any expectation of privacy with respect to such information.
2. If necessary the City of Harlingen will advise appropriate legal officials of any illegal activity by an employee through use of the City's computer system.

City of Harlingen Personnel Policy Manual

210 Leave

Revised 12/2015

I. PURPOSE

To provide a uniform leave benefit policy.

II. POLICIES AND PROCEDURES

This procedure describes the methods used by the City of Harlingen to provide uniform leave benefits. The procedure covers vacation, sick leave, holidays, qualified leave, military leave, bereavement leave, jury/court duty, administrative leave, unauthorized leave, family medical leave, natural disasters and national emergencies.

A. VACATION

Regular full-time employees, except fire department civil service shift personnel, earn vacation leave as follows based on 26 pay periods per year:

Years of Service	Bi-Weekly	Max. Annual Accrual
00 - 05 years	4.62 hours	15 days
05+ - 10 years	4.92 hours	16 days
10+ - 15 years	5.23 hours	17 days
15+ - 20 years	5.54 hours	18 days
20+ - 25 years	5.85 hours	19 days
25+ - 30 years	6.15 hours	20 days
30+ - 35 years	6.46 hours	21 days

City of Harlingen Personnel Policy Manual

210 Leave

Revised 12/2015

Fire department civil service shift personnel earn vacation leave as follows:

Years of Service	Bi-Weekly	Max. Annual Accrual
00 - 05 years	6.92 hours	15 days
05+ - 10 years	7.38 hours	16 days
10+ - 15 years	7.85 hours	17 days
15+ - 20 years	8.31 hours	18 days
20+ - 25 years	8.77 hours	19 days
25+ - 30 years	9.23 hours	20 days
30+ - 35 years	9.69 hours	21 days

Vacation leave accrues bi-weekly at the beginning of the pay period from the total service date.

1. Usage

Employees are encouraged to use a substantial portion of their vacation leave each year.

Unused vacation may be carried over as per each employee's anniversary date as follows:

Years of Service	Annually	Fire Shift Personnel
00 - 05 years	120 hours	180 hours
05+ - 10 years	128 hours	192 hours
10+ - 15 years	136 hours	204 hours
15+ - 20 years	144 hours	216 hours
20+ - 25 years	152 hours	228 hours
25+ - 30 years	160 hours	240 hours
30+ - 35 years	168 hours	252 hours

City of Harlingen Personnel Policy Manual

210 Leave

Revised 12/2015

2. Scheduling

Departments will schedule and approve leave considering their customers' needs, employees' interests and departmental operations. The following requirements apply:

- a. Vacation leave shall not be taken in less than fifteen minute increments.
- b. Vacation leave shall not be advanced.
- c. Vacation leave shall not be transferred from one employee to another.

3. Transfers, Promotions and Demotions

Laterally transferred, promoted or demoted employees shall retain accrued vacation leave.

4. Separation/Termination

Employees who have separated from their employment and have completed 90 days of employment with the City may be paid up to 144 hours of accrued leave. Fire department civil service shift personnel will be paid up to 216 hours of accrued leave.

5. Rehire

Any employee who separates from the City and is rehired will be eligible to use past service for determining the rate to accrue vacation. Prior service must have been served in a regular full-time position.

6. Full-time to Part-time

Employees transferring from regular full-time to regular part-time positions will not accrue vacation leave. Any full-time employee transferring to a part-time position will be paid for unused vacation leave; in accordance with paragraph #4 of this leave policy "Separation/Termination" above.

7. Regular Part-time, Temporary and Seasonal Employees

Regular part-time, temporary and seasonal employees do not accrue vacation leave.

B. SICK LEAVE

1. Full-time Employees

All regular full-time employees, except fire department civil service shift personnel, earn 4.62 hours of sick leave bi-weekly based on 26 pay periods per year. Sick leave accrues bi-weekly at the beginning of the pay period. Fire department civil service shift personnel earn 6.92 hours of sick leave bi-weekly (i.e. maximum annual accrual of sick leave cannot exceed 15 days per 12 month period).

City of Harlingen Personnel Policy Manual

210 Leave

Revised 12/2015

2. Full-time to Part-time

Any full-time employee transferring to a part-time position will be paid for unused sick leave; in accordance with paragraph #10 of this leave policy “Non Civil Service Employees Separation/Termination Pay” below.

3. Regular Part-time, Temporary and Seasonal Employees

Regular part-time, temporary and seasonal employees do not accrue sick leave.

4. Accumulation

Accumulation of sick leave is unlimited.

5. Well Pay Program

After one year of employment, employees who use less than five (5) days of sick leave and accrue a minimum of ten sick days during a fiscal year qualify for this program. Employees who select this option receive \$50 for each day up to a maximum of \$250 per fiscal year. FMLA sick leave taken will count as days used. For the purposes of this program, Civil Service Emergency Leave will count toward sick leave days taken. See chart below:

Days used	Days Paid	Days Accrued	Amount Paid
0	5	10	\$250
1	4	10	\$200
2	3	10	\$150
3	2	10	\$100
4	1	10	\$50

Employees who use a total of four (4) hours or less during the fiscal year for preventative health measures will qualify for the maximum of five (5) days paid.

Payment checks will be distributed annually on the second pay period in November.

6. Usage

Sick leave may be taken in quarter- hour increments for personal illness and injury or routine health care appointments that cannot reasonably be scheduled outside work hours.

7. Care of Family Members

To assist eligible family members, employees may take accrued sick leave. This assistance will include care for a family member’s illness, disability or health appointment. For the purpose of using sick leave, an eligible family member shall be the employee’s child, stepchild, parent, stepparent and spouse. A child is defined as a biological, adopted or foster child, step-

City of Harlingen

Personnel Policy Manual

210 Leave

Revised 12/2015

child, child of an employee who is a legal or designated guardian or legal ward of the employee. The child must be under 18 years of age, or 18 years of age or older but incapable of self-care because of a mental or physical disability. Leave is limited to twelve weeks per year or the accrued balance of sick leave, whichever is greater.

8. Proof of Illness

Department Directors or their designees may require satisfactory proof of illness at any time the employee is using sick leave. A Department Director may disallow use of sick leave in the absence of satisfactory proof of need.

A Department Director may require the employee to furnish a statement from the attending physician confirming the employee's ability to resume his/her job duties before permitting the employee to return to work.

9. Illness While on Vacation

Employees who become ill or are injured during vacation may request that the vacation be terminated and the illness or injury time be converted to sick leave. Employees will be required to provide medical evidence of the illness or injury.

10. Non-Civil Service Employees Separation/Termination Pay

Non-civil service employees will be eligible to receive pay for unused sick leave upon separation as follows:

Months of F/T Service	Payment Eligibility (percent)	Maximum Paid Hours
0-24	0%	-0-
25 +	50%	Up to 360

Non-civil service employees will be paid up to 360 hours of accrued sick leave upon separation.

Sick leave payment for police and fire department personnel shall be in accordance with city policy and state law as follows:

City of Harlingen Personnel Policy Manual

210 Leave

Revised 12/2015

Months of Full-time Service	Payment Eligibility (percent)	Maximum Paid Hours
0-12	0%	-0-
13 +	100%	Up to 720 (1080 for Fire shift personnel)

Civil Service employees will be paid up to 720 hours of accrued sick leave upon separation. (Fire department civil service shift personnel may be paid for up to 1080 hours.)

C. USE OF LEAVE BY EXEMPT EMPLOYEES

Exempt employees of a the City will be placed on unpaid leave for absences due to illness or injury of less than one full day when leave is not used by the employee because the employee's accrued leave has been exhausted;

Provided that the employee is paid according to the City's pay system established by a policy established pursuant to the principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the City employee's pay to be reduced for such absences.

D. EXTENDED SICK LEAVE

An extended sick leave program, as described below, is available to all full-time employees in the event of a catastrophic illness or injury suffered by the employee. This program is available, subject to donated time and other restrictions set forth, after all paid leave has been exhausted.

- A catastrophic illness or injury is one that is life threatening and one that completely incapacitates an employee from performing any type of work. Examples include, but are not limited to, cancer, heart attack, or serious injuries from an automobile accident.
- A catastrophic illness or injury is limited to personal, catastrophic, unplanned events and excludes on-the-job injuries covered under Workers' Compensation. No illness or injury of an employee's family will be considered for this program.
- A physician's statement may be required by the Human Resources Director before an employee can be considered for this benefit.

City of Harlingen

Personnel Policy Manual

210 Leave

Revised 12/2015

- A qualified recipient may receive up to a maximum of 720 hours of sick leave per fiscal year (90 days).
- Full-time employees may donate a minimum of 8 and a maximum of 120 sick leave hours per fiscal year to a qualified recipient. No full time employee is required to donate any sick leave days under any circumstances.
- Any person may advise the Human Resources Department that a full time employee is potentially a qualified recipient. Human Resources shall contact the potentially qualified recipient to ascertain if he/she wants the Human Resources Director to notify the employee's co-workers of his/her situation and solicit the donation of the co-workers' sick leave days. If the qualified employee requests the solicitation to be made, he/she shall submit a written request to the Human Resources Director. The Human Resources Director shall decide whether an employee is a qualified recipient of donated sick leave. If the Director determines that the employee is a qualified recipient of donated sick leave, the Human Resources Director shall solicit donations from employees.
- Donations of sick leave shall be made and received at the rate of one day's pay, regardless of the salary of the donor or the donee.

E. SCHEDULE OF HOLIDAYS

Official City of Harlingen holidays will be published and distributed annually.

1. Official Holidays

- New Year's Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving and the day after
- Christmas Eve
- Christmas Day

An employee on unauthorized leave on the working day immediately preceding and/or following a holiday shall lose pay for the holiday as well as for the other day or days off.

Employees desiring to observe religious or other holidays not coinciding with official holidays may be given time off without pay or may be authorized to use accrued vacation leave.

City of Harlingen Personnel Policy Manual

210 Leave

Revised 12/2015

If a holiday falls on Saturday, the preceding Friday shall be observed, and if a holiday falls on Sunday, the following Monday shall be observed. If one or more of the Christmas Holidays fall on a weekend, the City Manager will designate the official days of observance.

Holidays falling within an employee's vacation period or within a period of absence properly chargeable to illness shall not be counted against vacation or sick leave.

2. Regular Part-time, Temporary and Seasonal Employees

Regular part-time, temporary and seasonal employees shall not be compensated for holidays unless they work on those holidays.

In the event that a regular part-time, temporary or seasonal employee is scheduled to work during an observed holiday, he/she shall be compensated at the rate equal to two times the regular rate of pay.

3. Department Schedules

The policy of the City will be for as many employees as possible to have approved holidays off consistent with the maintenance of essential city functions. Work schedules shall be based on department needs, and supervisors will determine holiday work schedules based on these needs.

At the Department Director's discretion, regular full-time employees scheduled to work on holidays will be scheduled for another day off, or may be compensated at a rate equal to the regular rate of pay for every hour worked on that day plus the 8 hour holiday pay.

4. Shift Schedules

Department Directors shall ensure that eligible shift workers and other employees working unusual schedules receive benefit of the full number of official holidays.

Fire department civil service shift personnel will receive 12 hours of holiday leave for each official City of Harlingen holiday regardless of whether the employee worked the holiday.

F. QUALIFIED LEAVE

Employees are entitled to four hours of leave (6 hours for fire shift personnel) for not using sick leave. The eligibility period includes 13 bi-weekly pay periods from October to March and from April to September of each year.

G. MILITARY LEAVE

1. Zero to 120 Hours

Employees are entitled to military leave with pay in accordance with state and federal laws for a cumulative maximum of 120 hours in a calendar year.

City of Harlingen Personnel Policy Manual

210 Leave

Revised 12/2015

This includes both active duty training and regular active duty. The term "with pay" means full and regular pay for days and times the employee would ordinarily have been working.

Employees must notify their supervisors before their pending duty.

2. Duty Verification

Employees shall provide written performed duty verification as soon as possible, but no later than their return to work. Verification is necessary in order to confirm payment of military pay and to confirm any veterans' re-employment rights.

Verification may include, but is not limited to, orders, drill letters, introductory schedule and a signed duty verification from the officer in charge.

H. BEREAVEMENT LEAVE

Department Directors/supervisors, after ascertaining the exact circumstances, may grant a regular full-time employee up to 16 work hours per fiscal year of paid leave for deaths within the employee's immediate family. (Fire department civil service shift personnel may receive up to 24 hours per year.) (For the purpose of bereavement leave, a "family member" shall be defined as a spouse, parent*, parent-in-law, child*, brother*, sister*, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, grandchild or grandparent-in-law.) Vacation or sick leave may be used to supplement bereavement leave, upon request and approval. Employees may be required, at the discretion of the supervisor, to present proof of immediate family death.

*Also includes step-.

I. JURY/COURT DUTY

Employees required by summons to report for jury duty (including grand jury duty), or who are impaneled as a juror or alternate, shall receive their regular pay during the time period directly related to jury duty (not to exceed 40 hours of jury duty pay per week). (Fire department civil service shift employees may receive up to 56 hours of jury duty pay per week).

1. Regular Pay

Employees requesting regular pay for work time spent on jury duty must present proof of attendance from the court before pay can be issued.

Upon release from jury duty, employees must return to their assigned work location. Employees failing to return to work during their normal work hours are subject to disciplinary action.

2. Official City Business

Employees who are subpoenaed to appear in court or before any other judicial or administrative body for and on behalf of official city business or on behalf of the county, state or federal gov-

City of Harlingen

Personnel Policy Manual

210 Leave

Revised 12/2015

ernment for services related to city duties, shall be compensated in accordance with the procedures specified under H., Jury Duty.

Employees requesting regular pay shall provide a copy of the subpoena and, if available, proof of attendance by the court or respective administration body.

3. Personal/Private Business

Employees will not be paid for time off to conduct personal or private legal business. Vacation or compensatory time may be used if approved by the supervisor and/or Department Director.

J. ADMINISTRATIVE LEAVE

1. With Pay

Employees may receive paid administrative leave for official business or other work-related matters as designated by the Department Director or designee. Other authorized purposes may include, but not be limited to, voting in official elections, investigative proceedings, jury duty, professional conferences, conventions, training activities, legislative proceedings, civic functions or any other purpose deemed to be in the City's best interests.

2. Without Pay

Administrative leave without pay will be utilized when employees have: (a) exhausted all accrued paid leave, or (b) been placed on such leave by Department Directors.

Employees on leave without pay status for 80 hours or more will not accrue benefits for that period. Employees may pay for continuing dependant health insurance coverage.

K. UNAUTHORIZED LEAVE

Employees failing to report for duty or failure to remain at work as scheduled without proper notification, authorization or excuse shall be considered to be on unauthorized leave of absence and shall not be in pay status for the time involved. Unauthorized leave of absence for three consecutive work days shall be considered voluntary resignation by the employee.

L. FAMILY AND MEDICAL LEAVE

Eligibility for leave under the Family and Medical Leave Act (FMLA) requires that employees must have worked for the city for a total of twelve months and at least 1,250 hours in the previous 12 months. Up to 12 work weeks of Family Medical Leave may be granted during a 12-month period (see Section 212). Up to 26 work weeks of Military Family Leave under the Family Medical Leave Act may be granted during a 12-month period.

M. DISCRETIONARY LEAVE

Discretionary leave for exempt employees will be approved at the discretion of their Department Director or designee.

City of Harlingen

Personnel Policy Manual

210 Leave

Revised 12/2015

N. NATURAL DISASTERS AND NATIONAL EMERGENCIES

During a natural disaster or national emergency, employees of the City of Harlingen may be required to work. This may require separation from family members for extended periods. Refusal to work during such emergencies may result in disciplinary action.

III. APPENDICES

- A. Extended Sick Leave Request
- B. Sick Leave Donation Memo
- C. Extended Sick Leave Donation Form

THIS PAGE INTENTIONALLY LEFT BLANK

EXTENDED SICK LEAVE REQUEST

Employee Name (Print)

Address

Employee Number/Department

City State Zip

Date of Hire

Telephone (home/work)

Briefly describe the nature of the illness or injury: _____

1. What is your current sick leave balance? _____ hrs; vacation leave balance? _____ hrs; compensatory time balance? _____ hrs.
2. What is your current status? (check whichever is appropriate)
 - Working, but anticipating an extended absence due to surgery or hospitalization scheduled on or about (date)_____.
 - Currently hospitalized or convalescing at home.
 - Working off and on, due to ongoing medical treatments which require convalescence.
 - Other (describe) _____

3. What date do you anticipate returning to work? _____

Employee Signature/ Date

Department Director Signature/Date

THIS PAGE INTENTIONALLY LEFT BLANK

To: City Employees

From: _____, Human Resources Director

Re: Sick Leave Donation to _____

Date:

_____ is an employee in the _____ Department. He/she has been out sick for some time and has exhausted his/her leave. We ask that you consider a voluntary contribution of some sick leave time to _____'s account.

In doing so, please be aware of the following:

1. The hours you donate will be deducted from your sick leave balance and you will notice this change on your check stub.
2. You may donate a minimum of 8 hours and a maximum of 120 hours during this calendar year to this employee.
3. You are not required to donate any sick leave time to any employee. Any donation is strictly voluntary.

THIS PAGE INTENTIONALLY LEFT BLANK

EXTENDED SICK LEAVE DONATION FORM

Donor Name _____ Position Title _____

Employee # _____ Department _____

To be completed by employee only:

Total number of accrued sick leave hours as of today's date: _____

I freely and voluntarily authorize the donation and transfer of _____ hours of my currently accrued sick leave to _____'s sick leave account. I understand and agree that these donated hours will not be returned or repaid to me in any form whatsoever.

I understand that I am not required to donate any of my accrued sick leave to any employee.

Employee Signature

Date

Confirmed by:

Department Director/ Timekeeper

Date

Submit completed form to the Human Resources Department

Copy: Employee's Personnel File
Finance/Payroll

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen

Personnel Policy Manual

211 Dress Code

Revised 12/2015

I. PURPOSE

To outline grooming and personal appearance standards.

II. POLICIES AND PROCEDURES

All City employees, uniformed and non-uniformed, are required to report to work neat, clean, well groomed, and dressed appropriately and modestly in acceptable attire so as to present a positive, professional public image. Employees are expected to dress appropriately in business casual attire. Jeans, t-shirts, shirts without collars, shorts, and footwear such as flip flops, sneakers, and sandals are not appropriate for business casual attire. This policy is not designed to conflict with established uniform or safety codes of the individual departments.

Any employee who does not meet the standards of this policy will be required to take corrective action, which may include leaving the premises. Nonexempt employees will not be compensated for any work time missed because of failure to comply with this policy. Violations of the dress code may result in disciplinary action.

The Department Director is responsible for monitoring and enforcement of this policy.

Casual Fridays

The exception to this policy is on “casual Fridays” when less formal clothing is authorized. The employees are still expected to present a neat appearance and are not permitted to wear untidy or torn clothing, athletic wear, or similarly inappropriate clothing, this includes clothing with profane language statements or clothing that promotes causes that include, but are not limited to, politics, religion, sexuality, race, age, gender, and ethnicity

Jewelry

All employees are prohibited from attaching, affixing, or displaying objects, articles, jewelry or ornamentation to or through the nose, tongue, or any exposed body part (includes visible through clothing) while on duty. Body piercing (except ear lobe) that is or may be visible at anytime while on duty is prohibited.

Tattoos and Brands

All employees are prohibited from exposing tattoos or brands anywhere on the body that are offensive or that advocate sexual, racial, or religious discrimination while on duty and/or uniform.

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen Personnel Policy Manual

212 Family Medical Leave

Revised 09/2007

I. PURPOSE

To provide eligible employees with family and medical leave benefits, in accordance with the Family and Medical Leave Act.

II. POLICIES AND PROCEDURES

Unpaid leave may be granted for any of the following reasons:

- For birth, or placement for adoption or foster care. (must conclude within 12 months of the birth or placement). In addition, if an employee and the employee's spouse are both employed by the City, both are jointly entitled to a combined total of 12 work weeks of family leave for the birth or placement of a child for adoption or foster care, or to care for a parent (but not a parent-in-law) who has a serious health condition.
- To care for the employee's spouse, son or daughter, or parent, who has a serious medical condition or
- For a serious health condition that makes the employee unable to perform the employee's job.

A. Serious Health Condition

For purposes of this policy, a "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

- inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., the inability to work, attend school or perform other regular daily activities), or any subsequent treatment in connection with such inpatient care;

B. Continuing Treatment

Continuing treatment by a health care provider which includes one or more of the following:

- a period of incapacity of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves treatment: (i) two or more times by, or under the direct supervision of, under orders of, or on referral by, a health care provider, or (ii) by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider;
- any period of incapacity due to pregnancy, or for prenatal care;

City of Harlingen

Personnel Policy Manual

212 Family Medical Leave

Revised 09/2007

- any period of incapacity or treatment for such incapacity due to a chronic serious health condition which (i) requires periodic visits for treatment by, or under the direct supervision of, a health care provider, or (ii) continues over an extended period of time
- (including recurring episodes of a single underlying condition; and (iii)
- may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);
- a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, or the terminal stages of a disease);
- any period of absence to receive multiple treatments (including any period of recovery there from) by, or under the supervision of, under orders of, or on referral by, a health care provider either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

Unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches (other than migraines), routine dental or orthodontia problems, and periodontal disease are **not** serious health conditions. In addition, routine physicals, eye examinations, and dental examinations are not considered treatment.

C. Other Employment

Under no circumstances may an employee on FMLA leave work another job, whether for pay, as a volunteer or as self-employment, unless expressly authorized in writing by the Department Director and the City Manager.

III. ELIGIBILITY

The City of Harlingen will provide up to twelve (12) weeks of *unpaid*, job protected leave to all "eligible" employees in any 12-month rolling period measured backward from the date an employee uses any FMLA leave. Employees are eligible if they have worked for The City of Harlingen for at least one year, *and* for 1,250 hours in the 12-month period immediately preceding the leave.

The City of Harlingen will require that the employee substitute for any portion of the family and medical leave all *accrued* sick leave or vacation leave. The employee may volunteer to also use his/her comp time or use leave without pay.

All substitute paid and unpaid time (including sick leave, vacation, compensatory and workers' compensation), if applicable, will run concurrently with the Family and Medical Leave.

City of Harlingen

Personnel Policy Manual

212 Family Medical Leave

Revised 09/2007

Family and Medical Leave Act (FMLA) begins when an FMLA-qualifying situation takes place. FMLA does **not** begin when all company paid benefits have been exhausted.

IV. PROCEDURE FOR REQUESTING LEAVE

In all cases, an employee requesting leave must complete an "Application for Family and Medical Leave" and return it to Risk Management or (Human Resources Director, if employed with HWWS) for processing.

The completed application must state the reason for the leave, the duration of the leave, and the starting and ending dates of the leave.

An employee intending to take family or medical leave because of an expected birth or placement, or because of a planned medical treatment, must submit an application for leave at least thirty (30) days. In the event of medical leave for planned medical treatment for the employee or for the employee's spouse, child or parent, the employee is required to make a reasonable effort to schedule the treatment so as not to unduly disrupt the City's operations.

All supervisors must **immediately** notify their Department Director if they have reason to believe an employee's absence is due to an FMLA-covered reason. (Note: Under the FMLA, an employee requesting paid or unpaid leave for an absence covered by the FMLA is not required to expressly mention FMLA. If the employee states a reason that qualifies as FMLA leave, the employee, will likely have met the FMLA's notice requirements).

V. MEDICAL CERTIFICATION

An application for leave based on the serious health condition of the employee or the employee's spouse, child or parent must also be accompanied by a "Medical Certification Statement" completed by a health care provider. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition. In the case of intermittent leave, the certification must also provide the dates and duration of the treatments necessitating the intermittent leave. The City of Harlingen may request a second or third medical opinion, if necessary, at the City of Harlingen's expense.

If the employee is needed to care for a spouse, child or parent, the certification must so state, along with an estimate of the amount of time the employee will be needed. If the employee has a serious health condition, the certification must state that the employee cannot perform the functions of his or her job.

Employees must also provide periodic reports during FMLA leave as to their status and intent to return to work, and will be required to submit a "fitness-for-duty" certification before an

City of Harlingen Personnel Policy Manual

212 Family Medical Leave

Revised 09/2007

employee can return to work. In some cases the City may also require periodic recertifications of the serious health condition.

If an employee fails to provide any required certification within 15 days, the City may deny leave until the certification is provided.

If an employee elects to take FMLA leave in order to care for a family member, the employee may be required to provide reasonable documentation confirming a family relationship.

VI. REDUCED WORK SCHEDULE

Eligible employees may take FMLA leave on an intermittent or reduced schedule basis only if “medically necessary,” or otherwise approved by their Department Director. In such cases, the employee may be temporarily transferred to alternative positions with equivalent pay and benefits. The transfer is to better accommodate recurring leave periods.

VII. BENEFITS COVERAGE DURING LEAVE

During a period of family or medical leave, an employee will be retained on the City of Harlingen’s health plan under the same conditions that applied before leave commenced. To continue health coverage, the employee must continue to timely make any contributions that he or she made to the plan before taking leave. Arrangements need to be coordinated with the Risk Management Department. The City may recover premiums if paid to maintain health coverage for an employee who fails to return to work from FMLA leave, unless the employee is unable to return due to a serious health condition or something else beyond the employee’s control. Medical certification is required under such circumstances. An employee is not entitled to the accrual of any seniority or employment benefits that would have occurred if not for the taking of unpaid FMLA leave. An employee who takes family or medical leave will not lose any employment benefits that accrued before the date leave began.

Retirement - Employee contributions to the retirement system may be made on a voluntary basis through a special arrangement with the City while an employee is in a leave without pay status. It is the employee’s responsibility to initiate such an arrangement by timely contacting the City’s Human Resources Department and completing the necessary paperwork.

VIII. RESTORATION TO EMPLOYMENT FOLLOWING LEAVE

An employee eligible for family and medical leave - with the exception of those employees designated as “highly compensated employee” - will be restored to his or her old position or to a

City of Harlingen Personnel Policy Manual

212 Family Medical Leave

Revised 09/2007

position with equivalent pay, benefits, and other terms and conditions of employment. The City of Harlingen cannot guarantee that an employee will be returned to his or her original job. A determination as to whether a position is an “equivalent position” will be made by the City of Harlingen.

An employee must complete a **“Notice of Intention to Return from Family or Medical Leave”** before he or she can be returned to active status. If an employee wishes to return to work prior to the expiration of an extended family or medical leave of absence, notification must normally be given to the employee’s supervisor at least two (2) working days prior to the employee’s planned return, where feasible.

The failure of an employee to return to work upon the expiration of a family or medical leave of absence may subject the employee to immediate termination unless an extension is granted. An employee who requests an extension of family or medical leave must do so in writing and prior to the expiration of the approved leave.

Certain highly compensated key employees may be denied reinstatement when necessary to prevent “substantial and grievous economic injury” to the City’s operations. A “key” employee is a salaried eligible employee who is among the highest paid ten percent of employees within 75 miles of the worksite. Employees will be notified of their status as a key employee, when applicable, after they request FMLA leave.

IX.

COORDINATION WITH OTHER PROGRAMS

Employees cannot be disqualified from the Qualified Leave Program and Well Pay Program because of FMLA absences.

If, due to business necessity, the department needs to fill the position during the leave period, authorization may be requested from and coordinated with the HR department for the hiring of a temporary employee.

X.

TEMPORARY REPLACEMENTS

If, due to business necessity, the department needs to fill the position during the leave period, authorization may be requested from and coordinated with the HR department for the hiring of a temporary employee.

City of Harlingen

Personnel Policy Manual

212 Family Medical Leave

Revised 09/2007

XI.

FLSA CONSIDERATIONS

Salaried executive, administrative, and professional employees of the City who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the “salary basis” requirements for the FLSA’s exemptions extends only to eligible employees’ use of leave required by the FMLA.

XII.

OTHER PROVISIONS

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law that provides greater family or medical leave rights.

This policy is intended to explain benefits available to eligible employees under the FMLA. It is not intended to create any rights to leave beyond those created by the FMLA. If you would like additional information on the FMLA, please contact the Risk Management Department. When an employee gives notice of the need for FMLA leave, the employee will be given additional information as to his or her rights and responsibilities under the FMLA. In addition, employees may contact the nearest office of the U.S. Department of Labor’s Wage & Hour Division for more information.

XIII.

APPENDICES

- A. Designation Notice
- B. Notice of Eligibility and Rights & Responsibilities
- C. Certification of Health Care Provider for Employee’s Serious Health Condition
- D. Certification of Health Care Provider for Family Member’s Serious Health Condition
- E. Certification for Serious Injury or Illness of a Current Servicemember-for Military Family Leave
- F. Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave
- G. Certification of Qualifying Exigency For Military Leave

Designation Notice
(Family and Medical Leave Act)

U.S. Department of Labor
Wage and Hour Division



OMB Control Number: 1235-0003
Expires: 5/31/2018

Leave covered under the Family and Medical Leave Act (FMLA) must be designated as FMLA-protected and the employer must inform the employee of the amount of leave that will be counted against the employee's FMLA leave entitlement. In order to determine whether leave is covered under the FMLA, the employer may request that the leave be supported by a certification. If the certification is incomplete or insufficient, the employer must state in writing what additional information is necessary to make the certification complete and sufficient. While use of this form by employers is optional, a fully completed Form WH-382 provides an easy method of providing employees with the written information required by 29 C.F.R. §§ 825.300(c), 825.301, and 825.305(c).

To: _____

Date: _____

We have reviewed your request for leave under the FMLA and any supporting documentation that you have provided. We received your most recent information on _____ and decided:

Your FMLA leave request is approved. All leave taken for this reason will be designated as FMLA leave.

The FMLA requires that you notify us as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against your leave entitlement:

Provided there is no deviation from your anticipated leave schedule, the following number of hours, days, or weeks will be counted against your leave entitlement: _____

Because the leave you will need will be unscheduled, it is not possible to provide the hours, days, or weeks that will be counted against your FMLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period).

Please be advised (check if applicable):

You have requested to use paid leave during your FMLA leave. Any paid leave taken for this reason will count against your FMLA leave entitlement.

We are requiring you to substitute or use paid leave during your FMLA leave.

You will be required to present a fitness-for-duty certificate to be restored to employment. If such certification is not timely received, your return to work may be delayed until certification is provided. A list of the essential functions of your position **is** **is not** attached. If attached, the fitness-for-duty certification must address your ability to perform these functions.

Additional information is needed to determine if your FMLA leave request can be approved:

The certification you have provided is not complete and sufficient to determine whether the FMLA applies to your leave request. You must provide the following information no later than _____, unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied.
(Provide at least seven calendar days)

(Specify information needed to make the certification complete and sufficient)

We are exercising our right to have you obtain a second or third opinion medical certification at our expense, and we will provide further details at a later time.

Your FMLA Leave request is Not Approved.

The FMLA does not apply to your leave request.

You have exhausted your FMLA leave entitlement in the applicable 12-month period.

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

It is mandatory for employers to inform employees in writing whether leave requested under the FMLA has been determined to be covered under the FMLA. 29 U.S.C. § 2617; 29 C.F.R. §§ 825.300(d), (e). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 – 30 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**

THIS PAGE INTENTIONALLY LEFT BLANK

Notice of Eligibility and Rights & Responsibilities
(Family and Medical Leave Act)

U.S. Department of Labor
Wage and Hour Division



OMB Control Number: 1235-0003
Expires: 5/31/2018

In general, to be eligible an employee must have worked for an employer for at least 12 months, meet the hours of service requirement in the 12 months preceding the leave, and work at a site with at least 50 employees within 75 miles. While use of this form by employers is optional, a fully completed Form WH-381 provides employees with the information required by 29 C.F.R. § 825.300(b), which must be provided within five business days of the employee notifying the employer of the need for FMLA leave. Part B provides employees with information regarding their rights and responsibilities for taking FMLA leave, as required by 29 C.F.R. § 825.300(b), (c).

[Part A – NOTICE OF ELIGIBILITY]

TO: _____
Employee

FROM: _____
Employer Representative

DATE: _____

On _____, you informed us that you needed leave beginning on _____ for:

- The birth of a child, or placement of a child with you for adoption or foster care;
- Your own serious health condition;
- Because you are needed to care for your _____ spouse; _____ child; _____ parent due to his/her serious health condition.
- Because of a qualifying exigency arising out of the fact that your _____ spouse; _____ son or daughter; _____ parent is on covered active duty or call to covered active duty status with the Armed Forces.
- Because you are the _____ spouse; _____ son or daughter; _____ parent; _____ next of kin of a covered servicemember with a serious injury or illness.

This Notice is to inform you that you:

- Are eligible for FMLA leave (See Part B below for Rights and Responsibilities)
- Are **not** eligible for FMLA leave, because (only one reason need be checked, although you may not be eligible for other reasons):
 - You have not met the FMLA's 12-month length of service requirement. As of the first date of requested leave, you will have worked approximately _____ months towards this requirement.
 - You have not met the FMLA's hours of service requirement.
 - You do not work and/or report to a site with 50 or more employees within 75-miles.

If you have any questions, contact _____ or view the FMLA poster located in _____.

[PART B-RIGHTS AND RESPONSIBILITIES FOR TAKING FMLA LEAVE]

As explained in Part A, you meet the eligibility requirements for taking FMLA leave and still have FMLA leave available in the applicable 12-month period. **However, in order for us to determine whether your absence qualifies as FMLA leave, you must return the following information to us by _____.** (If a certification is requested, employers must allow at least 15 calendar days from receipt of this notice; additional time may be required in some circumstances.) If sufficient information is not provided in a timely manner, your leave may be denied.

- Sufficient certification to support your request for FMLA leave. A certification form that sets forth the information necessary to support your request _____ is/_____ is not enclosed.
- Sufficient documentation to establish the required relationship between you and your family member.
- Other information needed (such as documentation for military family leave): _____

No additional information requested

If your leave does qualify as FMLA leave you will have the following responsibilities while on FMLA leave (only checked blanks apply):

Contact _____ at _____ to make arrangements to continue to make your share of the premium payments on your health insurance to maintain health benefits while you are on leave. You have a minimum 30-day (or, indicate longer period, if applicable) grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work.

You will be required to use your available paid _____ sick, _____ vacation, and/or _____ other leave during your FMLA absence. This means that you will receive your paid leave and the leave will also be considered protected FMLA leave and counted against your FMLA leave entitlement.

Due to your status within the company, you are considered a "key employee" as defined in the FMLA. As a "key employee," restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us. We _____ have/_____ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us.

While on leave you will be required to furnish us with periodic reports of your status and intent to return to work every _____. (Indicate interval of periodic reports, as appropriate for the particular leave situation).

If the circumstances of your leave change, and you are able to return to work earlier than the date indicated on the this form, you will be required to notify us at least two workdays prior to the date you intend to report for work.

If your leave does qualify as FMLA leave you will have the following rights while on FMLA leave:

- You have a right under the FMLA for up to 12 weeks of unpaid leave in a 12-month period calculated as:
 - _____ the calendar year (January – December).
 - _____ a fixed leave year based on _____.
 - _____ the 12-month period measured forward from the date of your first FMLA leave usage.
 - _____ a "rolling" 12-month period measured backward from the date of any FMLA leave usage.
- You have a right under the FMLA for up to 26 weeks of unpaid leave in a single 12-month period to care for a covered servicemember with a serious injury or illness. This single 12-month period commenced on _____.
- Your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work.
- You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. (If your leave extends beyond the end of your FMLA entitlement, you do not have return rights under FMLA.)
- If you do not return to work following FMLA leave for a reason other than: 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; 2) the continuation, recurrence, or onset of a covered servicemember's serious injury or illness which would entitle you to FMLA leave; or 3) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.
- If we have not informed you above that you must use accrued paid leave while taking your unpaid FMLA leave entitlement, you have the right to have _____ sick, _____ vacation, and/or _____ other leave run concurrently with your unpaid leave entitlement, provided you meet any applicable requirements of the leave policy. Applicable conditions related to the substitution of paid leave are referenced or set forth below. If you do not meet the requirements for taking paid leave, you remain entitled to take unpaid FMLA leave.

_____ For a copy of conditions applicable to sick/vacation/other leave usage please refer to _____ available at: _____.

_____ Applicable conditions for use of paid leave: _____

Once we obtain the information from you as specified above, we will inform you, within 5 business days, whether your leave will be designated as FMLA leave and count towards your FMLA leave entitlement. If you have any questions, please do not hesitate to contact:

_____ at _____.

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

It is mandatory for employers to provide employees with notice of their eligibility for FMLA protection and their rights and responsibilities. 29 U.S.C. § 2617; 29 C.F.R. § 825.300(b), (c). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**

Certification of Health Care Provider for
Employee's Serious Health Condition
(Family and Medical Leave Act)

U.S. Department of Labor
Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT

OMB Control Number: 1235-0003
Expires: 5/31/2018

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

Employer name and contact: _____

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

Check if job description is attached: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 20 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: _____
First Middle Last

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), genetic services, as defined in 29 C.F.R. § 1635.3(e), or the manifestation of disease or disorder in the employee's family members, 29 C.F.R. § 1635.3(b). Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: (_____) _____ Fax:(_____) _____

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Mark below as applicable:

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

No Yes. If so, dates of admission:

Date(s) you treated the patient for condition:

Will the patient need to have treatment visits at least twice per year due to the condition? No Yes.

Was medication, other than over-the-counter medication, prescribed? No Yes.

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

No Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? No Yes. If so, expected delivery date: _____

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition: No Yes.

If so, identify the job functions the employee is unable to perform:

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF LEAVE NEEDED

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? ___ No ___ Yes.

If so, estimate the beginning and ending dates for the period of incapacity: _____

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? ___ No ___ Yes.

If so, are the treatments or the reduced number of hours of work medically necessary?
___ No ___ Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? ___ No ___ Yes.

Is it medically necessary for the employee to be absent from work during the flare-ups?
___ No ___ Yes. If so, explain:

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency : _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or ___ day(s) per episode

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed above has requested leave under the FMLA to care for your patient. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as “lifetime,” “unknown,” or “indeterminate” may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), or genetic services, as defined in 29 C.F.R. § 1635.3(e). Page 3 provides space for additional information, should you need it. Please be sure to sign the form on the last page.

Provider’s name and business address: _____

Type of practice / Medical specialty: _____

Telephone: (_____) _____ Fax:(_____) _____

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?
___ No ___ Yes. If so, dates of admission: _____

Date(s) you treated the patient for condition: _____

Was medication, other than over-the-counter medication, prescribed? ___ No ___ Yes.

Will the patient need to have treatment visits at least twice per year due to the condition? ___ No ___ Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?
___ No ___ Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? ___ No ___ Yes. If so, expected delivery date: _____

3. Describe other relevant medical facts, if any, related to the condition for which the patient needs care (such as medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF CARE NEEDED: When answering these questions, keep in mind that your patient's need for care by the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care:

4. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery? No Yes.

Estimate the beginning and ending dates for the period of incapacity: _____

During this time, will the patient need care? No Yes.

Explain the care needed by the patient and why such care is medically necessary:

5. Will the patient require follow-up treatments, including any time for recovery? No Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Explain the care needed by the patient, and why such care is medically necessary: _____

6. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery? No Yes.

Estimate the hours the patient needs care on an intermittent basis, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

Explain the care needed by the patient, and why such care is medically necessary:

7. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities? ___ No ___ Yes.

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: ___ times per ___ week(s) ___ month(s)

Duration: ___ hours or ___ day(s) per episode

Does the patient need care during these flare-ups? ___ No ___ Yes.

Explain the care needed by the patient, and why such care is medically necessary: _____

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.

Signature of Health Care Provider

Date

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210.
DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.

Certification for Serious Injury or
Illness of a Current
Servicemember - -for Military Family Leave
(Family and Medical Leave Act)

U.S. Department of Labor

Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT

OMB Control Number: 1235-0003
Expires: 5/31/2018

Notice to the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a serious injury or illness of a current servicemember to submit a certification providing sufficient facts to support the request for leave. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 CFR 825.310. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees or employees' family members created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 CFR 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 CFR 1635.9, if the Genetic Information Nondiscrimination Act applies.

SECTION I: For Completion by the EMPLOYEE and/or the CURRENT SERVICEMEMBER for whom the Employee Is Requesting Leave

INSTRUCTIONS to the EMPLOYEE or CURRENT SERVICEMEMBER: Please complete Section I before having Section II completed. The FMLA permits an employer to require that an employee submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a serious injury or illness of a servicemember. If requested by the employer, your response is required to obtain or retain the benefit of FMLA-protected leave. 29 U.S.C. 2613, 2614(c)(3). Failure to do so may result in a denial of an employee's FMLA request. 29 CFR 825.310(f). The employer must give an employee at least 15 calendar days to return this form to the employer.

SECTION II: For Completion by a UNITED STATES DEPARTMENT OF DEFENSE ("DOD") HEALTH CARE PROVIDER or a HEALTH CARE PROVIDER who is either: (1) a United States Department of Veterans Affairs ("VA") health care provider; (2) a DOD TRICARE network authorized private health care provider; (3) a DOD non-network TRICARE authorized private health care provider; or (4) a health care provider as defined in 29 CFR 825.125

INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed on Page 2 has requested leave under the FMLA to care for a family member who is a current member of the Regular Armed Forces, the National Guard, or the Reserves who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness. For purposes of FMLA leave, a serious injury or illness is one that was incurred in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.

A complete and sufficient certification to support a request for FMLA leave due to a current servicemember's serious injury or illness includes written documentation confirming that the servicemember's injury or illness was incurred in the line of duty on active duty or if not, that the current servicemember's injury or illness existed before the beginning of the servicemember's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and that the current servicemember is undergoing treatment for such injury or illness by a health care provider listed above. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the servicemember's condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 CFR 1635.3(f), or genetic services, as defined in 29 CFR 1635.3(e).

SECTION I: For Completion by the EMPLOYEE and/or the CURRENT SERVICEMEMBER for whom the Employee Is Requesting Leave:

(This section must be completed first before any of the below sections can be completed by a health care provider.)

Part A: EMPLOYEE INFORMATION

Name and Address of Employer (this is the employer of the employee requesting leave to care for the current servicemember):

Name of Employee Requesting Leave to Care for the Current Servicemember:

First

Middle

Last

Name of the Current Servicemember (for whom employee is requesting leave to care):

First

Middle

Last

Relationship of Employee to the Current Servicemember:

Spouse Parent Son Daughter Next of Kin

Part B: SERVICEMEMBER INFORMATION

- (1) Is the Servicemember a Current Member of the Regular Armed Forces, the National Guard or Reserves?
Yes No

If yes, please provide the servicemember's military branch, rank and unit currently assigned to:

Is the servicemember assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as a medical hold or warrior transition unit)?

Yes No

If yes, please provide the name of the medical treatment facility or unit:

- (2) Is the Servicemember on the Temporary Disability Retired List (TDRL)?
Yes No

Part C: CARE TO BE PROVIDED TO THE SERVICEMEMBER

Describe the Care to Be Provided to the Current Servicemember and an Estimate of the Leave Needed to Provide the Care:

SECTION II: For Completion by a United States Department of Defense (“DOD”) Health Care Provider or a Health Care Provider who is either: (1) a United States Department of Veterans Affairs (“VA”) health care provider; (2) a DOD TRICARE network authorized private health care provider; (3) a DOD non-network TRICARE authorized private health care provider; or (4) a health care provider as defined in 29 CFR 825.125. If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care coordinator).

(Please ensure that Section I above has been completed before completing this section. Please be sure to sign the form on the last page.)

Part A: HEALTH CARE PROVIDER INFORMATION

Health Care Provider’s Name and Business Address:

Type of Practice/Medical Specialty: _____

Please state whether you are either: (1) a DOD health care provider; (2) a VA health care provider; (3) a DOD TRICARE network authorized private health care provider; (4) a DOD non-network TRICARE authorized private health care provider, or (5) a health care provider as defined in 29 CFR 825.125:

Telephone: () _____ Fax: () _____ Email: _____

PART B: MEDICAL STATUS

(1) The current Servicemember’s medical condition is classified as (Check One of the Appropriate Boxes):

(VSI) Very Seriously Ill/Injured – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

(SI) Seriously Ill/Injured – Illness/injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

OTHER Ill/Injured – a serious injury or illness that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating.

NONE OF THE ABOVE (Note to Employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a “serious health condition” under § 825.113 of the FMLA. If such leave is requested, you may be required to complete DOL FORM WH-380-F or an employer-provided form seeking the same information.)

(2) Is the current Servicemember being treated for a condition which was incurred or aggravated by service in the line of duty on active duty in the Armed Forces? Yes No

(3) Approximate date condition commenced: _____

(4) Probable duration of condition and/or need for care: _____

(5) Is the servicemember undergoing medical treatment, recuperation, or therapy for this condition? Yes No

If yes, please describe medical treatment, recuperation or therapy:

PART C: SERVICEMEMBER'S NEED FOR CARE BY FAMILY MEMBER

(1) Will the servicemember need care for a single continuous period of time, including any time for treatment and recovery? Yes No

If yes, estimate the beginning and ending dates for this period of time: _____

(2) Will the servicemember require periodic follow-up treatment appointments? Yes No

If yes, estimate the treatment schedule: _____

(3) Is there a medical necessity for the servicemember to have periodic care for these follow-up treatment appointments? Yes No

(4) Is there a medical necessity for the servicemember to have periodic care for other than scheduled follow-up treatment appointments (e.g., episodic flare-ups of medical condition)?
Yes No

If yes, please estimate the frequency and duration of the periodic care:

Signature of Health Care Provider: _____ **Date:** _____

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years, in accordance with 29 U.S.C. 2616; 29 CFR 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution AV, NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE PATIENT.**

Certification for Serious Injury or
Illness of a Current
Servicemember - -for Military Family Leave
(Family and Medical Leave Act)

U.S. Department of Labor

Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT

OMB Control Number: 1235-0003
Expires: 5/31/2018

Notice to the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a serious injury or illness of a current servicemember to submit a certification providing sufficient facts to support the request for leave. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 CFR 825.310. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees or employees' family members created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 CFR 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 CFR 1635.9, if the Genetic Information Nondiscrimination Act applies.

SECTION I: For Completion by the EMPLOYEE and/or the CURRENT SERVICEMEMBER for whom the Employee Is Requesting Leave

INSTRUCTIONS to the EMPLOYEE or CURRENT SERVICEMEMBER: Please complete Section I before having Section II completed. The FMLA permits an employer to require that an employee submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a serious injury or illness of a servicemember. If requested by the employer, your response is required to obtain or retain the benefit of FMLA-protected leave. 29 U.S.C. 2613, 2614(c)(3). Failure to do so may result in a denial of an employee's FMLA request. 29 CFR 825.310(f). The employer must give an employee at least 15 calendar days to return this form to the employer.

SECTION II: For Completion by a UNITED STATES DEPARTMENT OF DEFENSE ("DOD") HEALTH CARE PROVIDER or a HEALTH CARE PROVIDER who is either: (1) a United States Department of Veterans Affairs ("VA") health care provider; (2) a DOD TRICARE network authorized private health care provider; (3) a DOD non-network TRICARE authorized private health care provider; or (4) a health care provider as defined in 29 CFR 825.125

INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed on Page 2 has requested leave under the FMLA to care for a family member who is a current member of the Regular Armed Forces, the National Guard, or the Reserves who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness. For purposes of FMLA leave, a serious injury or illness is one that was incurred in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.

A complete and sufficient certification to support a request for FMLA leave due to a current servicemember's serious injury or illness includes written documentation confirming that the servicemember's injury or illness was incurred in the line of duty on active duty or if not, that the current servicemember's injury or illness existed before the beginning of the servicemember's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and that the current servicemember is undergoing treatment for such injury or illness by a health care provider listed above. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the servicemember's condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 CFR 1635.3(f), or genetic services, as defined in 29 CFR 1635.3(e).

SECTION I: For Completion by the EMPLOYEE and/or the CURRENT SERVICEMEMBER for whom the Employee Is Requesting Leave:

(This section must be completed first before any of the below sections can be completed by a health care provider.)

Part A: EMPLOYEE INFORMATION

Name and Address of Employer (this is the employer of the employee requesting leave to care for the current servicemember):

Name of Employee Requesting Leave to Care for the Current Servicemember:

First	Middle	Last
-------	--------	------

Name of the Current Servicemember (for whom employee is requesting leave to care):

First	Middle	Last
-------	--------	------

Relationship of Employee to the Current Servicemember:

Spouse Parent Son Daughter Next of Kin

Part B: SERVICEMEMBER INFORMATION

(1) Is the Servicemember a Current Member of the Regular Armed Forces, the National Guard or Reserves?
Yes No

If yes, please provide the servicemember's military branch, rank and unit currently assigned to:

Is the servicemember assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as a medical hold or warrior transition unit)?

Yes No

If yes, please provide the name of the medical treatment facility or unit:

(2) Is the Servicemember on the Temporary Disability Retired List (TDRL)?
Yes No

Part C: CARE TO BE PROVIDED TO THE SERVICEMEMBER

Describe the Care to Be Provided to the Current Servicemember and an Estimate of the Leave Needed to Provide the Care:

SECTION II: For Completion by a United States Department of Defense (“DOD”) Health Care Provider or a Health Care Provider who is either: (1) a United States Department of Veterans Affairs (“VA”) health care provider; (2) a DOD TRICARE network authorized private health care provider; (3) a DOD non-network TRICARE authorized private health care provider; or (4) a health care provider as defined in 29 CFR 825.125. If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care coordinator).

(Please ensure that Section I above has been completed before completing this section. Please be sure to sign the form on the last page.)

Part A: HEALTH CARE PROVIDER INFORMATION

Health Care Provider’s Name and Business Address:

Type of Practice/Medical Specialty: _____

Please state whether you are either: (1) a DOD health care provider; (2) a VA health care provider; (3) a DOD TRICARE network authorized private health care provider; (4) a DOD non-network TRICARE authorized private health care provider, or (5) a health care provider as defined in 29 CFR 825.125:

Telephone: () _____ Fax: () _____ Email: _____

PART B: MEDICAL STATUS

(1) The current Servicemember’s medical condition is classified as (Check One of the Appropriate Boxes):

(VSI) Very Seriously Ill/Injured – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

(SI) Seriously Ill/Injured – Illness/injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

OTHER Ill/Injured – a serious injury or illness that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating.

NONE OF THE ABOVE (Note to Employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a “serious health condition” under § 825.113 of the FMLA. If such leave is requested, you may be required to complete DOL FORM WH-380-F or an employer-provided form seeking the same information.)

(2) Is the current Servicemember being treated for a condition which was incurred or aggravated by service in the line of duty on active duty in the Armed Forces? Yes No

(3) Approximate date condition commenced: _____

(4) Probable duration of condition and/or need for care: _____

(5) Is the servicemember undergoing medical treatment, recuperation, or therapy for this condition? Yes No

If yes, please describe medical treatment, recuperation or therapy:

PART C: SERVICEMEMBER'S NEED FOR CARE BY FAMILY MEMBER

(1) Will the servicemember need care for a single continuous period of time, including any time for treatment and recovery? Yes No

If yes, estimate the beginning and ending dates for this period of time: _____

(2) Will the servicemember require periodic follow-up treatment appointments? Yes No

If yes, estimate the treatment schedule: _____

(3) Is there a medical necessity for the servicemember to have periodic care for these follow-up treatment appointments? Yes No

(4) Is there a medical necessity for the servicemember to have periodic care for other than scheduled follow-up treatment appointments (e.g., episodic flare-ups of medical condition)?
Yes No

If yes, please estimate the frequency and duration of the periodic care:

Signature of Health Care Provider: _____ **Date:** _____

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years, in accordance with 29 U.S.C. 2616; 29 CFR 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution AV, NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE PATIENT.**

PART A: QUALIFYING REASON FOR LEAVE

1. Describe the reason you are requesting FMLA leave due to a qualifying exigency (including the specific reason you are requesting leave):

2. A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for informational briefings sponsored by the military; a document confirming the military member's Rest and Recuperation leave; a document confirming an appointment with a third party, such as a counselor or school official, or staff at a care facility; or a copy of a bill for services for the handling of legal or financial affairs. Available written documentation supporting this request for leave is attached.

Yes No None Available

PART B: AMOUNT OF LEAVE NEEDED

1. Approximate date exigency commenced: _____

Probable duration of exigency: _____

2. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency?

Yes No

If so, estimate the beginning and ending dates for the period of absence:

3. Will you need to be absent from work periodically to address this qualifying exigency? Yes No

Estimate schedule of leave, including the dates of any scheduled meetings or appointments:

Estimate the frequency and duration of each appointment, meeting, or leave event, including any travel time (i.e., 1 deployment-related meeting every month lasting 4 hours):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours _____ day(s) per event.

PART C:

If leave is requested to meet with a third party (such as to arrange for childcare or parental care, to attend counseling, to attend meetings with school, childcare or parental care providers, to make financial or legal arrangements, to act as the military member's representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service organizations), a complete and sufficient certification includes the name, address, and appropriate contact information of the individual or entity with whom you are meeting (i.e., either the telephone or fax number or email address of the individual or entity). This information may be used by your employer to verify that the information contained on this form is accurate.

Name of Individual: _____ Title: _____

Organization: _____

Address: _____

Telephone: (_____) _____ Fax: (_____) _____

Email: _____

Describe nature of meeting: _____

PART D:

I certify that the information I provided above is true and correct.

Signature of Employee _____ Date _____

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. 2616; 29 CFR 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution AV, NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE EMPLOYER.**

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen Personnel Policy Manual

213 Employee Assistance Program

Revised 12/2015

I. PURPOSE

The City of Harlingen recognizes issues may arise including personal problems that can sometimes affect an employee's attendance or work performance. This employee assistance program (EAP) is designed to help employees and their families work through personal difficulties.

II. POLICIES AND PROCEDURES

The City's employee assistance program is provided through a professional behavioral health vendor. Its professional counselors can assist employees with a wide range of issues, including family problems, depression, financial concerns, stress, interpersonal conflicts, alcohol or drug abuse and other issues. Employees may be referred to the EAP Services in one of two ways:

- Voluntary self-referral
- Job performance referral

A. VOLUNTARY SELF-REFERRAL

An employee may voluntarily contact the EAP provider at any time for assistance. This self-referral can be completely of his/her own initiative. The self-referral can also be in response to informal suggestions by supervisors, through whom employees are made aware of the EAP services.

In most cases, appointments are available after normal working hours. If appointments are necessary during normal work hours, the time will be charged to accrued sick leave. If sick leave is not available, other leave may be used.

Up to three assessment visits may be provided free of charge by the EAP provider to each employee per occurrence. If additional treatment sessions are necessary, they will be covered according to the specifications of the employee's health plan.

Information regarding the reasons employees are seeking assistance through the EAP provider is strictly confidential. Supervisors should not ask what the reasons are and, if an employee volunteers any information, it should be treated confidentially.

B. JOB PERFORMANCE REFERRAL

A job performance referral by a Department Director may occur in conjunction with some form of disciplinary action, such as a performance improvement plan, based on documented performance deficiencies.

If a director feels that he or she should refer an employee to the EAP, the Director will contact the Human Resources Director with the initial information that the employee has been encouraged to contact the EAP provider within 24 hours. (The director may or may not have previously talked to the employee informally about seeking assistance from the EAP.). The director should then tell the

City of Harlingen

Personnel Policy Manual

213 Employee Assistance Program

Revised 12/2015

employee that he/she is encouraged to contact the EAP within the 24-hour time period to schedule an appointment.

In most cases, appointments are available after hours. Scheduled appointments during working hours for a maximum of five (5) assessment visits should be recorded as time worked. An employee should not have his or her time docked for job performance referred assessment appointments up to a maximum of five (5) visits.

Up to five assessment visits may be provided at no charge by the EAP provider to the employee. If additional treatment sessions are necessary, they will be covered according to the specifications of the employee's health plan and may be charged to sick leave or other paid or unpaid leave.

Although case specifics will be treated confidentially, the EAP provider will inform the Human Resources director whether an employee has attended the scheduled appointments.

If job performance does not improve, the director may continue the disciplinary process, whether or not the employee contacted the EAP.

City of Harlingen

Personnel Policy Manual

214 Nondisciplinary Separation

Revised 08/2004

I. PURPOSE

To provide employees with various types of separation from City service in good standing.

II. POLICIES AND PROCEDURES

This policy provides good-standing separation procedures for resignations, retirements, long term absence, layoffs and military service.

A. RESIGNATION

Employees may resign from City service in good standing by submitting their written resignations at least two weeks before their termination date.

B. RETIREMENT

Eligible employees may retire from City service in accordance with applicable programs.

C. INCAPACITY- Non Civil Service Employees

Incapacity can result from on-the-job injuries or from injuries or illnesses not related to the job or workplace. Incapacity occurs when an employee, for medical or psychological reasons, is unable to perform his/her essential job functions.

Should an employee's ability to physically or mentally perform his or her job duties be questioned, the Department Director may require the employee to submit medical or psychological information from the employee's physician or mental health care provider which evaluates fitness to perform essential job duties, as established in the employee's job description.

Incapacity policies are discussed below:

1. Work-Related Incapacity

An employee may be terminated for work-related incapacity after one year, or at the expiration of the employee's paid sick leave, whichever is later. In addition to collecting benefits under Texas Workers Compensation Act, the employee may utilize accrued paid leave (comp time, vacation and sick leave) to supplement his/her temporary income benefit. In order to ensure adequate staffing, the City will elect to pay an employee his/her remaining unused sick leave after one year's absence from employment (remaining unused sick leave period). Nothing in this section precludes the City from hiring an employee to perform the duties previously performed by the injured employee. Employees who are off on work-related incapacity shall be placed on FMLA leave immediately following the injury.

City of Harlingen

Personnel Policy Manual

214 Nondisciplinary Separation

Revised 08/2004

2. Non-Work-Related Incapacity

An employee may be terminated due to non-work-related incapacity after one year, or at the expiration of the employee's paid sick leave, whichever is later. For employees who have accrued less than one year's paid sick leave, vacation and other paid leave, the one year's leave of absence may be a combination of paid and unpaid time off. In order to ensure adequate staffing, the City may elect to pay an employee his/her remaining unused sick leave after one year's absence from employment. Nothing in this section precludes the City from hiring an employee to perform the duties previously performed by the incapacitated employee. Employees who are off work due to non-work-related incapacity shall be placed on FMLA leave immediately upon the occurrence of the incapacity.

3. Benefits During Incapacity

During the time that an employee is off work due to a work or non-work related incapacity, the employee will be able to continue his/her coverage under the City's medical insurance. The employee's share of the insurance shall be paid by the City during the period in which the employee has accrued sick leave; however, once accrued sick leave is exhausted or bought out, the employee is responsible for paying the premiums for his/her dependent coverage. At all times, the employee remains responsible for paying the employee's share of the premiums for dependents, if they are covered under the City's plan.

4. Incapacity Determination

Once an employee has exhausted the one year period, or all of his/her sick leave (unless the City has paid the employee for his unused sick leave in excess of one year), whichever period is longer, the City will determine whether the employee is qualified to return to work or will be separated from the City's employment. In making this determination, the supervisor and Department Director must determine whether the employee can then perform the essential functions of his/her position. The employee will be required to submit a doctor's report detailing the employee's ability to perform those essential functions.

The City may require a second opinion from a health care provider of the City's choice. If there is a conflict between the employee's physician's report and the opinion from the second health care provider, then the City may require a third medical opinion from a health care provider selected by the City. All costs associated with obtaining the second and third opinions shall be paid by the City.

In determining whether the employee will be separated from the City's service at the expiration of the leave period, the City will also consider whether the employee has a disability for which an accommodation may be made.

City of Harlingen

Personnel Policy Manual

214 Nondisciplinary Separation

Revised 08/2004

D. LONG TERM ABSENCE/TERMINATION

Brief appearances at work during a long term absence will not prevent the City from terminating the employee under this policy if it is determined to be in the City's best interest. Likewise, any employee who reports to work (e.g., in a light duty capacity) but is unable to perform the duties of his or her actual position for a one year period will be terminated. (Refer to the City's Limited Duty Policy).

This policy will be administered consistently with the City's obligations under the Americans with Disabilities Act and FMLA.

E. LAYOFFS

Layoffs may be necessitated in the best interests of the citizens and the organization. Criteria for layoffs associated with a reduction in work, service level or funding will be different from those associated with a change in duties or organization. Layoff criteria will be prepared and layoffs must be approved by the City Manager.

Layoff lists will be determined from demonstrated employee job performance; an employee's unique qualifications, knowledge and skills; disciplinary history. Layoffs shall not be considered disciplinary actions.

Laid-off employees, including temporary employees separated upon completion of duties, may be routinely recalled at any time, provided they remain qualified to perform the essential job functions.

F. MILITARY SEPARATION

Employees leaving City service in good standing to enter active duty or for active-duty training with the armed forces of the United States shall be eligible for reinstatement in accordance with applicable state and federal laws.

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen Personnel Policy Manual

215 Reinstatement

Revised 11/2007

I. PURPOSE

This procedure describes the City of Harlingen's policies concerning reinstatement and eligibility for re-employment.

II. POLICIES AND PROCEDURES

A. LAID-OFF EMPLOYEES

Employees who were laid off, including former temporary employees separated upon completion of duties, may be routinely recalled to work at any time, provided they remain qualified to perform the duties of the positions.

B. VETERANS

Employees who left the City service in good standing to enter active duty or for active-duty introductory with the armed forces of the United States shall be eligible for reinstatement in accordance with applicable state and federal laws.

C. ELIGIBILITY FOR REEMPLOYMENT

Former employees not eligible for reinstatement under the above provisions of this procedure may be considered for employment as members of the general public, depending upon the circumstances of their separation from city employment. Reemployed employees will be at-will employees and subject to the introductory period requirements.

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen Personnel Policy Manual

216 Discipline Policy

Revised 08/2004

I. PURPOSE

To provide a uniform and consistent policy for employee discipline and establish guidelines for management actions designed to correct the conduct of employees who have engaged in unacceptable behavior.

II. POLICY

Subject to the rights reserved in Section VIII, it is the policy of the City of Harlingen to use, when appropriate, positive measures and a process of progressive discipline to minimize and/or resolve employee performance or behavior problems before more serious actions must be taken.

III. POLICY GOAL

It is the goal of the disciplinary process to give employees, when appropriate, the opportunity to improve by identifying what specific actions they must take in order to meet behavior standards; and to ensure that disciplinary procedures are applied uniformly and consistently, in accordance with relevant facts, City policies, ordinances, and work rules.

IV. APPLICATION OF POLICY

A. **Introductory Employees**

This policy does not apply to introductory employees. An introductory employee may be discharged without right to review or appeal unless otherwise required by law.

B. **Regular Employees**

Disciplinary situations involving employees who have completed their introductory period may be dealt with by progressive discipline.

V. PROHIBITED ACTIVITIES

Disciplinary action will be imposed for violations of City or Departmental policies and procedures, codes of conduct, rules and regulations, either written or verbal. In addition, acts which are not specifically addressed in policies and procedures, codes of conduct, and rules and regulations, yet may adversely affect the City or put the health and safety of fellow employees or citizens at risk, will also likely result in disciplinary action. It is impossible to list all the forms of behavior that are considered unac-

City of Harlingen

Personnel Policy Manual

216 Discipline Policy

Revised 08/2004

ceptable in the workplace. The following are some examples of conduct that will likely result in disciplinary action, up to and including termination of employment:

- Theft or inappropriate removal or use of property not your own
- Falsification of timekeeping or other records, including employment application
- Working under the influence of alcohol or illegal drugs or abuse of legal drugs
- Sexual or other unlawful harassment
- Excessive absenteeism or tardiness or absence without notice
- Breaks in excess of the allotted time allowed
- Violation of smoking policy
- Profanity or abusive language
- Violation of safety or health rules and failure to immediately report an on-the-job injury
- Coercion, intimidation, or threats against citizens, supervisors, coworkers, or City officials
- Making or publishing false, vicious, or malicious statements about the City, a coworker, or a supervisor
- Possession, distribution, sale, transfer, or use of alcohol, illicit drugs or illegal inhalants in the workplace, while on duty, or while operating City-owned equipment
- Interfering with work schedules or another employee's ability to work
- Misuse of City telephones, computers, mail systems, etc.
- Unauthorized disclosure of confidential information
- Violation of City or Departmental policies, codes of conduct, rules and procedures
- Failure to be considerate of coworkers, citizens or others
- Unsatisfactory performance or conduct
- Disruptive activity in the workplace
- Fighting, provoking or instigating a fight, or threatening violence in the workplace
- Conduct which results in waste or damage of coworkers', City or citizen-owned property
- Possession of weapons on City time, City premises, or while on City business (except for licensed peace officers and animal control officers required to carry a weapon as part of their job duties)
- Failure to timely return to work upon conclusion of authorized leave or disciplinary suspension
- Outside employment that conflicts with, or potentially conflicts with, City interests

City of Harlingen Personnel Policy Manual

216 Discipline Policy

Revised 08/2004

- Insubordination or other disrespectful conduct
- Violation of local, state or federal laws
- Lying or willful omission of fact
- Failure or refusal to follow lawful orders
- Sleeping on the job (except for Fire Department personnel who are governed by applicable Fire Department Rules and Regulations)
- Dishonesty, including misrepresentation during hiring process

VI. IMMEDIATE DISCIPLINE ACTION

Engaging in certain misconduct subjects an employee to immediate suspension and/or termination, rather than providing an opportunity for correction of behavior through progressive discipline.

VII. DISCIPLINARY STEPS

The following outlines the progressive discipline process. Depending on the circumstances of each individual case, disciplinary action may consist of one or more of the following:

A. INFORMAL DISCUSSION/COUNSELING

When a problem or behavior problem is first identified, the problem is discussed with the employee, along with the steps that need to be taken in an effort to resolve the problem.

B. EMPLOYEE WARNING

If counseling fails to produce the desired changes, the employee receives verbal notice of unacceptable behavior, and a warning that future unacceptable behavior may result in further discipline. The warning includes:

- The employee's name
- The date of the warning
- The specific offense and date of occurrence.
- A specific statement of expected performance.
- Any explanation or other information that is necessary to make the warning effective.
- Name of Supervisor issuing warning.
- Notation whether employee warning is being given during the employee's introductory period.

C. WRITTEN REPRIMAND

If the problem which was the subject of a verbal warning persists or if the employee engages in other unacceptable conduct, the employee may receive a written reprimand. In addition, the employee will be

City of Harlingen

Personnel Policy Manual

216 Discipline Policy

Revised 08/2004

advised that continuation of the problem may lead to suspension without pay for a stated period of time and/or termination. The employee is provided an opportunity to demonstrate the behavior is not likely to occur in the future. The written reprimand includes:

- The employee's name
- The date of the warning
- The specific offense and date of occurrence
- References to previous verbal and/or written warning(s)
- A specific statement and date of expected performance and/or changes of behavior.
- Any explanation or other significant information.
- The employee's signature acknowledging receipt, or notation of refusal to sign
- Notation whether reprimand is being given during the employee's introductory period.
- Consequences

Records of all disciplinary actions must be kept in an employee's official personnel file.

D. DECISION MAKING LEAVE

Decision-making leave with pay is a positive form of discipline that may be appropriate in some situations. It may be used alone, as an alternative to other types of discipline, or in combination with other forms of discipline. The purpose of decision-making leave with pay is to give employees time to decide if they wish to remain employed by the City, and if so, if they can and will correct their behavior. Decision-making leave with pay may only be used one time for the same employee and cannot exceed one day or one shift, as appropriate.

E. SUSPENSION OR INVOLUNTARY DEMOTION

If verbal and written warnings fail to bring about a change in conduct, the employee, following an informal opportunity to present the employee's side of the story, may be suspended without pay, or involuntarily demoted and informed in writing that further occurrences will likely lead to notice of intent to terminate.

- There may be an investigative suspension with pay pending the completion of the City's investigation. If warranted, the investigative suspension may be replaced by suspension pending a termination review by the Human Resources Director or designee.
- The employee shall sign the notice of suspension or involuntary demotion acknowledging receipt of the notice or the employee's refusal to sign shall be noted.
- If the City determines no misconduct occurred, the City may, in its sole discretion, make the employee whole by reimbursing for lost pay, if any, and returning the employee to work.

Exempt employees may only be suspended without pay in week-long increments (e.g., one week or three weeks), unless the suspension is for a serious violation of City or departmental safety rules.

F. TERMINATION

When unacceptable conduct is severe enough or continues after verbal warnings (s), written warnings(s) and suspension, the City will initiate termination.

City of Harlingen Personnel Policy Manual

216 Discipline Policy

Revised 08/2004

Following a termination review by the Human Resources Director or designee, a recommendation shall be sent to the City Manager for final review and written approval.

All termination notices shall be hand delivered or sent certified mail.

VIII. RIGHTS RESERVED

The City may bypass any or all of the disciplinary steps and begin the disciplinary process at any level, depending upon the severity of the conduct, the employee's work performance and prior disciplinary history, frequency or combinations of infractions, the employee's length of service and any mitigating circumstances.

A. OPPORTUNITY TO RESPOND

Where disciplinary action includes suspension of one day or one shift (or more), a reduction of an employee's rate of pay, involuntary demotion and/or termination, the employee will be given an opportunity to respond to the allegations prior to disciplinary action being taken.

B. REVIEW BY HUMAN RESOURCES DIRECTOR

Any proposed disciplinary action in excess of a employee warning must be reviewed by the Human Resources Director prior to being given to the employee. This applies to both introductory and non-introductory employees.

C. AT WILL PROVISIONS

All employees of the City of Harlingen, except for those covered by Civil Service, are at will employees and have no expectation of continued employment, promotion or any other personnel benefit including but not limited to, sick leave, vacation leave, compensatory time, group health and life insurance except as required by federal and state law.

Employees who do not have a written, individual employment contract, signed by the City Manager and the affected employee, for a specific, fixed term of employment, are employed at will. This means that no individual supervisor has the authority to create an employment contract with an employee for any specified length of time. Either the employee or the City may terminate the employment relationship at any time, for any reason, without notice or cause.

IX. FELONIES AND MISDEMEANORS

Employees must immediately notify their supervisor and/or their Department Director if they are arrested, charged, indicted, convicted, receive deferred adjudication, or plead nolo contendere to any misdemeanor or felony; provided, however, employees who do not drive as part of their job duties with the

City of Harlingen Personnel Policy Manual

216 Discipline Policy

Revised 08/2004

City are not required to report minor traffic violations. An employee arrested, charged or indicted for a felony or misdemeanor, or accused of official misconduct or other serious criminal violation, may be placed on administrative leave (with or without pay) until the charge, indictment or information is dismissed or fully adjudicated without trial, and, if tried, until the trial and appeal (if any) are completed and all related administrative matters are concluded. Such a determination will be made by the appropriate Department Director and the City Manager. An employee on administrative leave may be reinstated to the position held before being placed on administrative leave (if available) if the indictment or information is dismissed, the employee is acquitted, or the conviction is reversed on appeal.

The City reserves the right to conduct criminal checks on employees at any time, to determine if an employee has been arrested, convicted or has otherwise disposed of a criminal charge. In the event an employee has failed to report an arrest, conviction, deferred adjudication or other disposition of a criminal matter, as required in this Section, the employee may be subject to disciplinary action up to and including discharge.

X. NO RIGHT OF APPEAL

There shall be no appeal of suspension, involuntary demotion or termination and the decision of the Manager is final.

XI. APPENDICES

- A. Employee Warning
- B. Written Reprimand
- C. Suspension

EMPLOYEE WARNING

TO: (Employee's Name and Title)

FROM: (Supervisor's Name and Title)

DATE:

SUBJECT: Employee Warning

Note to Supervisor---- check one:
Is employee on initial introductory period? ___Yes ___No

You are hereby notified that you are receiving a verbal notice of unacceptable behavior as a result of the following:

Reason For Action:

CHARGE: Violation of (specify written law, rule, regulation, policy, procedure, etc.)

SPECIFICATION: (Facts)

You shall refrain from further misconduct of this nature. Any recurrence in the future, or any other conduct that is a violation of City policies and procedures or not in the City's best interest will likely result in disciplinary action taken against you up to and including termination as outlined in Section 216 of the Personnel Policy.

Supervisor's Signature

Date

I acknowledge receipt of this memorandum.

Employee's Signature

Date

cc: Human Resources-Personnel File

APPENDIX A

04/07/04

THIS PAGE INTENTIONALLY LEFT BLANK

WRITTEN REPRIMAND

TO: (Employee's Name and Title)

FROM: (Supervisor's Name and Title)

DATE:

SUBJECT: Written Reprimand

Note to Supervisor---- check one:
Is employee on initial introductory period? ___Yes ___No

You are hereby notified that you are being reprimanded as a result of the following:

Reason For Action:

CHARGE: Violation of (specify written law, rule, regulation, policy, procedure, etc.)

SPECIFICATION: (Facts)

You shall refrain from further misconduct of this nature. Any recurrence in the future, or any other conduct that is a violation of City policies and procedures or not in the City's best interest will likely result in disciplinary action taken against you up to and including termination as outlined in Section 216 of the Personnel Policy.

Supervisor's Signature

Date

I acknowledge receipt of this memorandum.

Employee's Signature

Date

cc: Human Resources-Personnel File

THIS PAGE INTENTIONALLY LEFT BLANK

SUSPENSION

TO: (Employee's Name and Title)

Note to Supervisor---- check one:
Is employee on initial introductory period: ___Yes ___No

FROM: (Supervisor's Name and Title)

DATE:

SUBJECT: Suspension

You are hereby notified that you are being suspended without pay for (indicate number of working days) beginning on (date) thru (date). You are to report back to your assigned duties, as scheduled on (date).

Reason For Action:

CHARGE: Violation of (specify written law, rule, regulation, policy, procedure, etc.)

SPECIFICATION: (Facts)

You shall refrain from further misconduct of this nature. Any recurrence in the future, or any other conduct that is a violation of City policies and procedures or not in the City's best interest will likely result in disciplinary action taken against you up to and including termination as outlined in Section 216 of the Personnel Policy.

Manager's Signature

Date

I acknowledge receipt of this memorandum.

Employee's Signature

Date

cc: Human Resources-Personnel File

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen Personnel Policy Manual

217 Grievance Policy

Revised 09/2007

I. PURPOSE

To create options for employees to use in resolving certain workplace conflicts and disputes.

II. POLICY

It is the policy of the City of Harlingen to attempt to prevent the need for employee grievances, and to deal promptly with those which do occur.

III. GROUNDS FOR GRIEVANCE

A disagreement and/or complaint by an employee, or a group of employees acting as individuals, regarding the terms of employment, or about the conditions under which an employee performs his or her job shall constitute a grievance, and must be handled in the manner set forth herein.

The grievance procedure provided in the following sections is not available to an employee who has been involuntarily dismissed from employment with the City of Harlingen or to an employee who has not completed his or her initial introductory period.

IV. GRIEVANT PROTECTION

The City of Harlingen's policy prohibits anyone from taking adverse action against an employee for the sole reason that the employee filed a grievance in good faith. However, any employee who abuses the grievance process and/or files a grievance(s) in bad faith may be subject to disciplinary action, and his/her grievance will be rejected as "non-appealable".

V. INFORMAL GRIEVANCE

The first step in the grievance procedure is for the employee to attempt to resolve the grievance by an informal conference with his or her immediate supervisor within five (5) working days after the events upon which the grievance is based. If an informal conference with the supervisor does not result in a resolution of the problem(s) that is satisfactory to the employee, he or she may file a formal grievance.

If the grievance is against the employee's immediate supervisor, a formal complaint must be filed with the next level of supervision or up to the Department Director level.

If the grievance is against the Department Director, a formal complaint must be filed with the Human Resources Department.

City of Harlingen Personnel Policy Manual

217 Grievance Policy

Revised 09/2007

VI. FORMAL GRIEVANCE

Formal grievances shall be in writing, signed by the employee, and presented to the Department Director within five (5) working days after the informal conference is held. All grievances must be written and submitted to the employee's Department Director on the City's grievance form. The grievance form must be fully completed by the employee before it will be considered. Any documentation which helps to explain the grievance must be attached to the grievance form, including: copies of relevant policies, rules or regulations; who was involved in the action and when it occurred; the adverse disciplinary action taken; the alleged unequal and/or unlawful treatment complained of; the remedy sought; and any other information or documentation relevant to the grievance. A grievance will not be considered if the employee portion of the grievance form is incomplete or the form has not been signed and dated by the employee.

After being presented with a formal grievance, the Department Director shall:

- 1) Investigate the matter and attempt to make a decision on the grievance within 10 working days; and
- 2) Communicate the decision on the grievance to the employee in writing within two (2) working days after a decision has been made.

If the grievance is still not resolved to the employee's satisfaction, the employee may request that the Human Resources Director or designee review the decision.

The written grievance and a copy of the Director's decision will be forwarded to the Human Resources Director for review. The Human Resources Director shall:

- 1) Investigate the matter and attempt to make a decision on the grievance within ten (10) working days; and
- 2) Communicate the decision on the grievance to the employee in writing within two (2) working days after a decision has been made.

If the grievance is still not resolved to the employee's satisfaction, the employee may request that the Manager review the decision.

The written grievance and a copy of the Department Director's and Human Resources Director's decision will be forwarded to the Manager for review. The Manager shall:

- 1) Investigate the matter and attempt to make a decision on the grievance within ten (10) working days; and

City of Harlingen Personnel Policy Manual

217 Grievance Policy

Revised 09/2007

- 2) Communicate the decision on the grievance to the employee in writing within two (2) working days after a decision has been made.

The decision made by the Manager shall be considered final and binding.

Group Grievances shall mean when two or more employees file grievances that are similar in nature and may be addressed collectively, the Department Director or the Human Resources Department may group the individual grievances into a single grievance. The affected group of employees must select not more than two representatives from the group to act on behalf of the entire employee group for purposes of the grievance. The acceptance by the employee representative(s) of a decision or resolution of the matter will be binding on all of the employees in the group.

The decision made by the Manager shall be considered final and binding.

VII.

INVESTIGATION PROCEDURE

The manner of investigating the grievance shall be left to the discretion of management, but will normally involve, at minimum, an interview with all parties identified as being involved and a review of all documents relative to the grievance.

VIII.

APPENDICES

- A. Grievance Form

THIS PAGE INTENTIONALLY LEFT BLANK

**City of Harlingen
Employee Grievance Form**

_____ **Supervisor**
_____ **Dept. Director**
_____ **H.R. Director**
_____ **City Manager**

Employee Information

Name of Employee claiming incident: _____

Employee's Job Title: _____

Incident Information

Date/Time of Incident: _____

Location of Incident: _____

Description of Incident: _____

Witnesses to Incident: _____

In your opinion, was this problem / incident in violation of a City policy?
Yes ___ No ___ If yes, specify which policy and how the incident violated City policy

What ideas do you have for resolving/remedying the situation? _____

Is there any other information you feel is relevant to this situation? _____

Signature of person preparing report: _____ Date: _____

***At each level of review, the responding party must attach a dated and written decision regarding the grievance.**

04/07/04

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen Personnel Policy Manual

218 Substance Abuse

Revised 04/2004

I. PURPOSE

The citizens and taxpayers of the City of Harlingen expect that the City workplace will be free from the harmful influences of intoxicating beverages, illicit drugs and illegal inhalants. Likewise, it is the City's desire to provide a drug-free, healthful and safe workplace for its employees. Accordingly, the following is established as the City of Harlingen Substance Abuse Policy, which shall be applicable to all employees of the City of Harlingen, unless otherwise noted.

II. POLICIES AND PROCEDURES

A. DEFINITIONS

1. **Performing safety sensitive functions, as used in subsection J of this policy (Random Testing of City Employees)**, shall mean:
 - a. Sworn police officers;
 - b. Employees required to carry a firearm as part of their job duties;
 - c. Fire fighters whose job duties include driving or operating a fire apparatus;
 - d. Employees in positions requiring a Commercial Drivers License (CDL) and/or functioning in a safety sensitive position covered by DOT/FMCSA drug and alcohol testing regulations, to include those employees driving, operating, being on-call or on standby to drive or operate a "commercial motor vehicle" which is a vehicle that is designed to carry 16 or more passengers and/or weighs 26,001 pounds or more, and includes those employees whose job duties include loading, unloading, inspecting, and/or working on such vehicle(s) in any way which would affect vehicular performance or safety; and
 - e. Any other employee as may be designated by the Manager or his/her designee.
2. **Illicit drugs** shall mean those substances _____ deemed unlawful and/or illegal, including drugs which are legally obtainable but which were not legally obtained, and prescribed or over-the-counter drugs which are not being used as prescribed or as intended by the manufacturer.
3. **On the job or on duty** is defined as follows:
 - a. Presence at any place or location during working hours or while on duty;
 - b. Presence in a City-owned or City-leased vehicle at any time;
 - c. Presence in a privately owned vehicle which is being used to conduct City business or perform City functions;

City of Harlingen Personnel Policy Manual

218 Substance Abuse

Revised 04/2004

- d. At any time when conducting City business or performing City functions;
- e. While operating or using any City-owned or leased property or equipment; or
- f. While wearing a City uniform.

4. Under the influence of illicit drugs shall mean having present in the body or urine a quantity of an illicit drug sufficient to register a positive test result.

5. Under the influence of alcoholic beverages is defined as follows:

- a. Having an alcohol concentration equal to or greater than 0.04 grams of alcohol per 100 milliliters of blood; or
- b. Having an alcohol concentration equal to or greater than 0.04 grams of alcohol per 210 liters of breath.

6. Alcoholic beverages shall mean alcohol or any other substance containing more than 1/2 of 1 percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

7. Reasonable suspicion shall mean a suspicion based upon facts which would lead a reasonably prudent person to believe it likely that the employee in question was under the influence of illicit drugs, inhalants or alcoholic beverages as defined herein.

For purposes of this policy, reasonable suspicion is a belief based on articulable observations (*e.g.*, observation of alcohol or drug use, apparent physical state of impairment, incoherent mental state, changes in personal behavior that are otherwise unexplainable, deteriorating work performance that is not attributable to other factors, a work-related accident or injury or “near miss”, evidence of possession of substances or objects which appear to be illicit drugs, or drug paraphernalia) sufficient to lead a supervisor to suspect that the employee is under the influence of illicit drugs, inhalants or alcoholic beverages.

8. Employee Assistance Program (EAP) shall mean a counseling service or agency currently under contract with or utilized by the City of Harlingen to provide counseling, assistance, referral or related support to City employees suffering from problems related to drug and/or alcohol abuse.

9. Under the influence of illegal inhalants shall mean not having the normal use of mental or physical faculties by reason of the introduction of illegal inhalants into the body. Illegal inhalants includes abusable volatile chemicals as defined in Chapter 485 of the Texas Health and Safety Code.

10. Refusal to submit (to an alcohol or controlled substance test) shall mean:

- a. Failure to provide adequate breath for testing without a valid medical explanation after receiving notice of the requirement;

City of Harlingen Personnel Policy Manual

218 Substance Abuse

Revised 04/2004

- b. Failure to provide adequate urine for controlled substances testing without a valid medical explanation after receiving notice of the requirement;
- c. Engaging in conduct that obstructs or impairs the testing process.

B. PROHIBITED CONDUCT

All employees of the City of Harlingen are hereby prohibited from engaging in the following conduct:

1. **Illicit Drugs** – Using or possessing without a valid treating physician prescription, purchasing, selling or otherwise distributing illicit drugs while on the job or on City property.

Further, nothing contained herein is intended to authorize, permit or condone the possession, sale, distribution or use of any illegal or controlled substance, including, without limitation, any and all "designer drugs." The possession, sale, distribution or use of such illegal or controlled substances will likely result in disciplinary actions under any and all applicable policies and procedures of the City.

2. **Alcoholic Beverages** - Using, purchasing, possessing, serving, selling or otherwise distributing alcoholic beverages while on the job unless expressly authorized in writing by the City Manager. The term "on the job" includes lunch and all authorized breaks. The term "possessing" shall not apply to bottles or containers which are sealed and located in a nonpassenger compartment of a privately owned vehicle.

The use of alcohol by a City employee during a business lunch is prohibited even though the person with whom the employee is having lunch may be consuming alcohol. At no time may an employee under the influence of alcohol drive a City-owned or leased vehicle or operate or use other City-owned or leased property or equipment. Further, an employee on duty or conducting City business, including City-related business entertainment, may not drive his or her own personal vehicle while under the influence of alcohol.

Absent specific approval by the City Manager, City employees may **not** bring alcoholic beverages on City premises, including parking lots adjacent to City work areas, and may **not** store or transport alcohol in a City-owned or leased vehicle.

Certain City Police Department employees are required to be in possession of alcohol and/or illicit drugs in carrying out their job duties. Such employees will be exempted from certain portions of this policy under certain limited conditions; these employees will be advised in writing of the specific exemptions applicable to them. Additional guidelines will be established by Police Department operating procedures.

3. **Illegal Inhalants** - Using, purchasing, possessing, selling or otherwise distributing illegal inhalants in violation of Chapter 485 of the Texas Health and Safety Code.

City of Harlingen

Personnel Policy Manual

218 Substance Abuse

Revised 04/2004

4. **Reporting for work**, remaining on the job while under the influence, or testing positive for any of the following:
 - a. Illicit drugs,
 - b. Alcoholic beverages, or
 - c. Illegal inhalants

5. **Drug Related Paraphernalia** -This policy also prohibits the use, possession, distribution and sale of drug-related paraphernalia while on City premises or while on duty. Drug-related paraphernalia includes material and/or equipment designed for use in testing, packaging, storing, injecting, ingesting, inhaling or otherwise introducing illicit drugs into the body.

6. **On-Call Employees** - Employees scheduled to be on-call are expected to be fit for duty upon reporting to work. Any employee scheduled to be on-call who is called out is governed by this policy. Sometimes an employee who is not scheduled to be on-call may nevertheless be called out. If this occurs and the employee called out is under the influence of illicit drugs and/or alcohol such that reporting to work would result in a violation of this policy, the employee must so advise the appropriate supervisor on duty; the employee will not be required to report to work.

7. **Off-Duty Conduct**- The City may take disciplinary action, up to and including termination of employment, if an employee's off-duty use or involvement with illicit drugs, alcoholic beverages and/or inhalants is damaging to the City's reputation or business, is inconsistent with the employee's job duties, or when such off-duty use or involvement adversely affects the employee's job performance.

C. PERMISSIVE USE

1. **Permissive Use of Prescribed and Over-the-Counter Drugs** -The legal use of prescribed and over-the-counter drugs is permitted while on the job and while on City premises only if it does not impair an employee's ability to perform the essential functions of the job (or operation of a vehicle, property or other equipment) effectively and in a safe manner that does not endanger the employee, citizens or other individuals in the workplace. Examples of impairment include, but are not limited to, drowsiness, dizziness, confusion, or trembling.
2. **Permissive Use of Alcohol** - Reasonable alcohol consumption is not objectionable at certain City-sponsored social events, certain City parties, business entertainment if appropriate (but not during business lunches) and as may otherwise be specifically approved in advance by the City Manager. However, **no employee in his or her work-related capacity should ever be impaired because of the excessive use of alcohol.**

D. DRUG/ALCOHOL TESTING

Any time there exists a reasonable suspicion that an employee has violated the provisions of Paragraph II.B. hereof, the City may require the employee to submit to drug or alcohol testing. Likewise,

City of Harlingen Personnel Policy Manual

218 Substance Abuse

Revised 04/2004

the City may require testing after a workplace injury or accident or “near miss” or in connection with any required treatment or rehabilitation. Failure of the employee to submit to drug or alcohol testing will likely result in disciplinary action up to and including termination.

E. SUBSTANCE ABUSE AMONG CURRENT EMPLOYEES

This section sets forth the procedures for enforcing the provisions of the City of Harlingen Substance Abuse Policy.

- 1. Testing** - Drug testing of an employee for illicit drugs, illegal inhalants or alcoholic beverages will be conducted only upon written authorization by the Manager or the Department Director, working together with the Human Resources Department. A written (Reasonable Suspicion Observation Form, Appendix D) form will be required from the person(s) who observed the employee, describing the specific behavior that supports testing (e.g., the who, what, when, where of the employee’s behavior and other symptoms from other employees or third parties, and other evidence supporting the reasonable suspicion testing). In all cases, consultation with the Legal and/or Human Resources departments is required prior to testing.

To the extent possible, testing will normally be done during the employee’s normal work time. Testing should be arranged as soon as possible after the articulable observations. If testing is required after normal business hours, the supervisor should call the Risk Manager (the Safety Coordinator or Human Resources Director, if employed with HWWS) who will refer them to the appropriate testing facility.

- 2. Observation** - Observable facts which may provide a basis for "reasonable suspicion," include, but are not limited to, one or more of the following: the odor of alcoholic beverages or other intoxicants, significant confusion or disorientation, slurred speech, erratic behavior, excessive or unexplained tardiness or absenteeism, or an on-the-job accident, or injury or “near miss”.
- 3. Awareness** - Any employee having knowledge that another employee is in violation of the substance abuse policy is strongly encouraged to report such information to his/her supervisor, Department Director or to the Human Resources Director.
- 4. Authorization** - If drug and/or alcohol testing is authorized, the employee will be required to sign a consent form. After giving his/her consent, the employee will be transported immediately to an appropriate facility and required to provide a blood, breath or urine sample as appropriate.
- 5. Analysis** – All urine is collected as a split specimen and will be analyzed by a licensed toxicology laboratory or other appropriate facility designated by the City. If such analysis yields a positive result, a confirmatory analysis will be performed. If the employee challenges the validity of the test, the employee has the option of a second test at the employee’s expense. All breath samples will be analyzed by a trained breath alcohol technician. An alcohol concentration of 0.04 or greater is considered a positive test result, and will likely result in dismissal. An alcohol concentration of 0.02 or greater, but less than 0.04, may result in dismissal; however, at the Department

City of Harlingen

Personnel Policy Manual

218 Substance Abuse

Revised 04/2004

Director's discretion and based on the individual circumstances, the employee may receive a lesser disciplinary action.

6. **Administrative Leave** – Any employee required to provide a specimen or sample under “Reasonable Suspicion”, may be placed on administrative leave with or without pay pending receipt by the City of written results of the drug and/or alcohol testing. If the results indicate violation of Paragraph II.B. of the policy, a dismissal action will be initiated.
7. **Disciplinary Action Procedure** - Violation of Paragraph II.B., II.D., II. K., or any other section of this policy will likely result in dismissal.

Nothing contained herein shall be construed to limit, restrict, modify or condition the investigation by appropriate law enforcement officers of any alleged criminal activity.

F. PRE-EMPLOYMENT TESTING

All applicants for employment with the City of Harlingen will be required to submit to pre-employment drug testing prior to hiring. The City of Harlingen will post public notices that pre-employment drug testing will be required. Only applicants who have completed the interviewing and selection process and are still being considered for employment will be required to submit to drug testing. Any job offer that is extended to an applicant will be contingent upon test results that do not indicate a positive result.

The applicant will be requested to sign a Controlled Substances and/or Alcohol Test Authorization/Consent Release Form. If the applicant is a minor, he/she and his/her parent or legal guardian must also sign a Parental Consent and Release Form. Any applicant who refuses to sign a consent form or who refuses to undergo the drug testing will be ineligible for future employment consideration with the City of Harlingen.

If the analysis indicates the presence of illicit drugs as defined in the City of Harlingen’s Substance Abuse Policy, a confirmatory test will be performed. If this second test confirms the positive test result, the applicant will be given the opportunity to provide written proof within 24 hours that the applicant has a current, valid prescription for the substance in question, failing which, the applicant will be denied employment and disqualified for further consideration.

G. INTERDEPARTMENTAL PROMOTIONS AND TRANSFERS

Drug testing shall be administered for employees who are transferring into positions requiring Department of Transportation testing if the previous position did not require that testing.

H. EMPLOYEE ASSISTANCE PROGRAM

An Employee Assistance Program is available to employees who voluntarily seek assistance or are referred under this policy for substance abuse problems.

City of Harlingen

Personnel Policy Manual

218 Substance Abuse

Revised 04/2004

1. **EAP Availability** - Prior to a suspected violation under Sections II.B., II.D., II.K., or any other section of this policy, any employee may avail himself/herself of the Employee Assistance Program. In order to do so, the employee must do the following:
 - a. Communicate to his/her Department Director, or Human Resources that he/she is, or may be, suffering from illicit drug, illegal inhalant, or alcohol abuse or addiction;
 - b. Agree and commit in writing to undergo or participate in a program of counseling, treatment or therapy prescribed or recommended by the Employee Assistance Program;
 - c. Execute a release which will authorize any and all doctors, counselors, therapists or other care providers to provide to Human Resources, upon written request, a statement as to whether the employee is fulfilling all the requirements or obligations of his/her Program, whether the Program has been successfully completed, and whether the employee is released to continue work with the City; and
 - d. Agree in writing, upon successful completion of the Program, to pass an initial test for illicit drugs and/or alcohol before returning to work and to submit to periodic and/or random drug and alcohol testing for a period of at least six months following completion of the Program. This agreement is a condition of continued employment.
 - e. Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take a one-time leave of absence to participate in a rehabilitation or treatment program. (An employee may not enroll in a rehabilitation or treatment program in lieu of disciplinary action.) The one-time leave of absence may be granted in the City's sole discretion and as may otherwise be required under the Family Medical Leave Act. Factors considered by the City in deciding whether to grant leave include the length of the employee's employment with the City, the employee's prior work and disciplinary history, the employee's agreement to abstain from the use of the problem substance and follow all other requirements of the rehabilitation/treatment program, the reputation of the program and the likelihood of a successful outcome, the employee's compliance with City policies, rules, and prohibitions relating to conduct in the workplace, and the resulting hardship on the City due to the employee's absence.
2. **Employee Protection** - So long as the employee is fulfilling all requirements and obligations of the Program, he/she will not be subject to discipline for prior violation(s) of the Substance Abuse Policy, unless there is a subsequent violation of this policy.

I. TREATMENT PROGRAM AVAILABILITY

An employee who seeks services by a treatment program other than the City's Employee Assistance Program is encouraged to check with his/her medical carrier to determine the availability and level of insurance coverage for such services. There are a number of drug/alcohol treatment programs available. An employee who wants to know more about the Employee Assistance Program and its services may contact Human Resources or may call the Employee Assistance Program directly.

City of Harlingen Personnel Policy Manual

218 Substance Abuse

Revised 04/2004

J. RANDOM TESTING OF CERTAIN CITY EMPLOYEES

The City, at its discretion, will conduct separate random drug and/or alcohol testing for all employees performing safety sensitive functions.

1. Testing will be conducted on a random, unannounced basis. Individuals will be randomly selected via computer by the clinic under contract with the City of Harlingen for the testing services.
2. Prior to the implementation of random drug testing for newly designated safety sensitive positions, all affected employees will be given a 30 days notice that the program will be implemented.

K. REFUSAL TO COMPLY

Any conduct resulting in obstruction of the testing policy is considered a violation of this policy. It includes but is not limited to the following:

1. Refusal to submit to any type of required drug testing and/or alcohol testing covered by this policy;
2. Refusal to report to the testing facility on the day and time the employee was told to report;
3. Refusal to sign or complete any documents required by the City of Harlingen or by the testing facility;
4. Tampering with a specimen or attempting any form of adulteration of a specimen;
5. Failing to remain readily available for testing after an accident, injury or "near miss" (when applicable under this policy); or
6. Failing to provide adequate breath or urine for testing purposes without a valid medical explanation.

An applicant violating this section will not be hired and will be ineligible for employment. An employee violating this section will likely be terminated and will also be ineligible for future employment with the City of Harlingen.

L. RECORDS RELATING TO DRUG AND ALCOHOL TESTING

All records relating to drug or alcohol testing results, or relating to participation in the City's Employee Assistance Program, will be maintained separately from the general personnel files of the City. Any medical-related information will be confidential and only accessible by designated City representatives on a need to know basis, including those who have a need to know about necessary restrictions on the work or duties of an employee and any necessary accommodation; first aid and safety personnel when appropriate; government officials; insurance companies as may be necessary to provide health or life insurance to employees; by court order or as otherwise legally mandated; and as necessary to protect the interests of the City. These records will be accessible only with prior ap-

City of Harlingen

Personnel Policy Manual

218 Substance Abuse

Revised 04/2004

proval of the Human Resources Director, and will be given only after consultation with the City Attorney. If a representative of any other governmental entity or any member of the public requests access to such records, whether pursuant to the Texas Public Information Act or otherwise, the request shall be referred to the office of the City Attorney for further consideration.

M. CONDITION OF EMPLOYMENT

Each employee of the City of Harlingen will be informed of the Substance Abuse Policy set forth in this section and may be required to sign a statement acknowledging the acceptance of the requirements and terms thereof as a condition of continued employment with the City. An employee is however, subject to this policy even if he/she has not, for whatever reason, signed such a statement.

N. ALCOHOL AND DRUG TESTING PURSUANT TO DEPARTMENT OF TRANSPORTATION REGULATIONS

The Department of Transportation and the Federal Motor Carrier Safety Administration require alcohol and drug testing of employees in safety sensitive positions, including those requiring commercial driver's licenses by the State of Texas or a higher authority. The City will abide by applicable federal regulations governing drug and alcohol testing of employees in such safety sensitive positions. In addition to the other sections of this policy, City employees governed by DOT and FMCSA regulations are also subject to this subsection N of the City's Substance Abuse Policy as well as applicable DOT and FHA rules and regulations. Below is a summary of DOT/FMCSA testing regulations. The City will comply with all applicable DOT/FMCSA regulations.

1. Prohibited Alcohol and Drug Use

- a. Performance of safety-sensitive functions is prohibited under the following conditions:
 - While having a breath alcohol concentration of 0.04 or more as indicated via breath test;
 - While using alcohol; or
 - Within four hours after using alcohol.
- b. Illicit use of drugs by safety-sensitive drivers is prohibited both on and off duty.

2. Alcohol and Drug Tests Required

- a. Pre-employment – Drug and alcohol tests will be conducted after an offer of employment is made, but before actually performing safety-sensitive functions for the first time. These tests are also required when employees are promoted or transferred into safety sensitive driver positions.
- b. Post-accident testing– Drug and alcohol tests will be conducted on employees performing “safety sensitive functions” when any of the following occur: (i) if the employee is issued a moving violation; (ii) if one or more of the vehicles involved is disabled to the extent that it must be towed from the scene; (iii) if any person involved in the accident is injured to the extent that he/she requires and receives immediate medical treatment away from the scene of the accident; or (iv) an accident that involved a fatality.

City of Harlingen

Personnel Policy Manual

218 Substance Abuse

Revised 04/2004

- c. Reasonable suspicion testing is conducted when a trained supervisor determines that an employee-driver may be in violation of this policy. The reasonable suspicion must be based on specific, contemporaneous, articulable factors concerning the appearance, behavior, speech, or body odors of the suspected employee-driver.

The following requirements must also be followed:

- (i) The supervisor must consult with the Department Director and affirm the bases of his or her suspicion; if the Department Director concurs, he or she may order the employee-driver to undergo testing;
- (ii) If alcohol testing cannot be administered within two hours after the observation, a written statement must be promptly prepared and retained that explains why the alcohol test was not promptly administered;
- (iii) If alcohol testing cannot be administered within eight hours after the observation, the City will cease attempts to administer an alcohol test, and state the reasons that the alcohol test was not administered.

Note: On reasonable-suspicion testing, the Department Director must consult with the Legal and/or Human Resources departments prior to making the final decision to test.

- d. Random - Alcohol tests will be conducted on an unannounced basis just before, during or just after performance of safety-sensitive functions. Individuals will be randomly selected via computer by the clinic under contract with the City of Harlingen for the testing services.

Drug tests will be conducted at any time regardless of what task is being performed.

- e. Return-to-duty and follow-up - Conducted when an individual who has violated the prohibited alcohol conduct standards returns to performing safety-sensitive duties. Follow-up tests are unannounced, and at least six tests must be conducted in the first 12 months after a driver returns to duty. Follow-up testing may be extended for up to 60 months following return to duty. Return-to-duty and follow-up tests are applicable only for those seeking assistance and, based on individual circumstances, for those who may have had an alcohol concentration of 0.01 or greater, but less than 0.04.
- f. Refusal to test – Refusal to be tested in any of the above circumstances will result in nonselection for an applicant or dismissal for an employee.

3. Consequences of Positive Alcohol Test

An employee-driver who is tested and has an alcohol concentration of 0.04 or greater will be terminated. An employee-driver who is tested and has an alcohol concentration of .02-.39 will not be permitted to perform his/her duties for a minimum of 24 hours and will face discipline up to and including termination. If the employee-driver is not terminated, then he or she will receive

City of Harlingen Personnel Policy Manual

218 Substance Abuse

Revised 04/2004

a mandatory referral to a substance abuse professional through the City of Harlingen's Employee Assistance Program, and any non-compliance with the treatment recommendations of the substance abuse professional will result in disciplinary action, up to and including termination. (The employee-driver will be placed on administrative leave without pay during the treatment period. That employee may utilize any accrued sick leave.)

4. Alcohol Testing Procedure

Tests will be conducted by a trained breath alcohol technician. If the alcohol concentration is 0.01 or greater, a second confirmation test will be conducted, the results of which will determine any actions taken.

5. Drug Testing Procedure

Drug testing is conducted by analyzing a driver's urine at a certified laboratory. "Split" urine specimens provide employee -drivers with an opportunity for a second opinion, if needed.

If the employee-driver challenges the validity of the test, the he/she may seek a second test at an approved location at his/her own expense.

6. Drugs Tested For

Department of Transportation requires testing for the following drugs:

- Marijuana
- Cocaine
- Amphetamines
- Opiates
- Phencyclidine (PCP)

A screening test is performed first. If it is positive for one or more of the drugs listed, then a confirmation test is performed.

7. Results Interpretation

All drug test results are reviewed and interpreted by a physician medical review officer (MRO) before they are reported to the City of Harlingen.

8. Consequences of a Positive Drug Test

A positive drug result will result in termination.

9. Confidentiality

Test results may be released only to the driver, employer, substance abuse professional, laboratory officials and medical review officer. They cannot be released to others without the written consent of the driver. All test results will be kept in a confidential file under the employee's name.

City of Harlingen Personnel Policy Manual

218 Substance Abuse

Revised 04/2004

Note: For new hires, promotions and transferred employee-drivers, the City of Harlingen is required, with the driver's written consent, to obtain information from previous employers regarding alcohol test results of 0.04 or greater, positive drug test results and refusals to test within the preceding two years.

10. Use of Law Enforcement Tests

In post-accident situations, the City of Harlingen reserves the option to substitute a blood or breath alcohol test and a urine drug test performed by local law enforcement officials, using procedures required by their jurisdictions, providing such test results are received directly from the local jurisdiction or the driver. If the City substitutes a law enforcement based post-accident test, it will take the actions appropriate to the result (as outlined in Subsection N.3. and 8. above).

O. DRUG-FREE WORKPLACE

Under the Drug-Free Workplace Act, employees must, as a condition of employment, do the following:

1. Abide by the terms of this Substance Abuse Policy; and
2. Notify their immediate supervisor or department director in writing of any citation received, arrest for or conviction under any criminal drug statute or Driving While Intoxicated statute no later than five (5) calendar days from such receipt, arrest or conviction. Violations of this reporting policy will subject an employee to disciplinary actions up to and including termination.

The Human Resources Department will notify the applicable federal agencies in writing within ten (10) calendar days after receiving written notice from an employee of his/her conviction for a violation of a criminal drug statute occurring in the workplace.

III. APPENDICES

- A. Controlled Substance and/or Alcohol Test Authorization/ Consent Release Form
- B. Request/Consent Form for Information from Previous Employer for Substance Abuse Testing Records
- C. Parental Consent and Release Form
- D. Reasonable Suspicion Observation Form

CITY OF HARLINGEN
SUBSTANCES AND/OR ALCOHOL TEST
AUTHORIZATION/CONSENT RELEASE FORM

I, _____, give my permission to the City of Harlingen, Texas, and the licensed testing facility it has selected to conduct the tests required for drug and alcohol testing for reasons described in the City of Harlingen Substance Abuse Policy.

I understand that if the drug test is positive, the laboratory will conduct a second test using a different and more sensitive analytical method to confirm the original result.

I understand that if the positive results of the tests are caused by medications prescribed by an accredited treating physician for treatment of a current condition, the testing facility (or it's designee) will attempt to verify the circumstances with the physician before taking any actions affecting my employment or job.

I understand that if the positive results of the tests are caused by drugs or alcohol that are not part of a currently prescribed medical treatment program, I will be subject to termination or I will not be hired by the City of Harlingen and will not be eligible to reapply.

I understand that if I refuse to participate in this drug/alcohol test and/or do not authorize the City and my personal physician to discuss any medications that I may be taking, I will be subject to termination or will not be offered employment. I understand that if I do not report to the licensed testing facility on the day and time I am told to report, I will be subject to termination or will not be hired by the City of Harlingen and will not be eligible to reapply.

I further understand and agree to the release of the test results to the City of Harlingen and that the results may result in discipline up to and including termination.

I have read and understand this form.

Applicant Signature Date _____
Witness Signature Date

___ Check this space if the employee/applicant refuses to sign the form. Explain the ramifications of his/her refusal to sign the form. Have another employee witness his/her verbal refusal. Both employees should sign and date form in the spaces below.

Witness Signature Date _____
Witness Signature Date

THIS PAGE INTENTIONALLY LEFT BLANK

CITY OF HARLINGEN
REQUEST/CONSENT FORM FOR INFORMATION FROM PREVIOUS EMPLOYERS
FOR SUBSTANCE ABUSE TESTING RECORDS

I, _____, give my consent to the City of Harlingen, Texas, to request the release of information concerning alcohol and controlled substance test results on myself, from any previous employer(s) within the past two (2) years pursuant to the Omnibus Transportation Employee Testing Act of 1991, and the DOT Federal Regulations (49 CFR part 382.413).

Specifically, I give my consent to my previous employer(s) to provide to the City of Harlingen, Texas any test results that show a driver alcohol test with a concentration of 0.04 or greater, positive controlled substance test results, refusals to be tested, follow-up testing, and return to duty testing, within the preceding two (2) years.

I understand that if I refuse to sign this form I will not be eligible for employment, promotion, or transfer to a CDL Driver or other safety sensitive position with the City of Harlingen.

Applicant/Employee Signature Date Social Security Number

Witness Signature Date

___ Check this space if the applicant/employee refuses to sign. Have another employee witness his/her verbal refusal. Both employees should sign and date the form in the space below.

Witness Signature Date Witness Signature Date

THIS PAGE INTENTIONALLY LEFT BLANK

CITY OF HARLINGEN
PARENTAL CONSENT AND RELEASE FORM

NAME OF APPLICANT: _____ DATE OF BIRTH: _____

SOCIAL SECURITY #: _____

I, _____, hereby authorize _____
(Name of Parent, Guardian)

to perform tests and procedures, under the City of Harlingen's Substance Abuse Policy, for controlled substances on my son/daughter_____. I hereby release the City of Harlingen, its officials, employees, and representatives, and _____, its personnel, physicians, and other personnel affiliated or involved in administering the tests and procedures from any and all liability which results from the tests being performed, communication of test results, or any employment action taken as a result of such tests.

NAME OF PARENT OR GUARDIAN

DATE

SIGNATURE OF PARENT/GUARDIAN

WITNESS

DATE

APPENDIX C

THIS PAGE INTENTIONALLY LEFT BLANK

**CITY OF HARLINGEN
REASONABLE SUSPICION OBSERVATION FORM
(STRICTLY CONFIDENTIAL)**

EMPLOYEE NAME:

DATE/TIME OF INCIDENT

SUPERVISOR #1 NAME:

SUPERVISOR #2 NAME:

This checklist is to be completed when an incident has occurred or when a supervisor has been given information which provides reasonable suspicion that an employee is under the influence of an illicit drug(s) or alcohol. The Supervisor(s) shall note all pertinent behavior and physical signs or symptoms which lead you to reasonably believe that the employee has recently used or is under the influence of an illicit drug(s) or alcohol. Mark each applicable item on this form and detail any additional facts or circumstances which you have noted.

A. NATURE OF THE INCIDENT/CAUSE FOR SUSPICION

- 1. Observed/reported possession or use of a prohibited substance.
- 2. Apparent drug or alcohol intoxication
- 3. Observed abnormal or erratic behavior
- 4. Arrest or conviction for drug-related offense
- 5. Evidence of tampering on a previous drug test
- 6. A work related injury or accident or "near miss"
- 7. Deteriorating work performance that is not attributable to other factors
- 8. Other (e.g., violation of safety regulations, serious misconduct, fighting or argumentative/abusive language, refusal of supervisor instruction, unauthorized absence on the job) (please specify)

B. UNUSUAL BEHAVIOR

- 1. Verbal abusiveness
- 2. Physical abusiveness
- 3. Extreme aggressiveness or agitation
- 4. Withdrawal, depression, mood changes, or unresponsiveness
- 5. Inappropriate verbal response to questioning or instructions
- 6. Other erratic or inappropriate behavior (e.g., hallucinations, disorientation, excessive euphoria, confusion) (please specify)

APPENDIX D

04/07/04

C. PHYSICAL SIGNS OR SYMPTOMS

- 1. Possessing, dispensing, or using what appears to be an illicit drug, or alcohol
- 2. Slurred or incoherent speech
- 3. Unsteady gait or other loss of physical control; poor coordination
- 4. Dilated or constricted pupils or unusual eye movement
- 5. Bloodshot or watery eyes
- 6. Extreme fatigue or sleeping on the job
- 7. Excessive sweating or clamminess to the skin
- 8. Flushed or very pale face
- 9. Highly excited or nervous
- 10. Nausea or vomiting
- 11. Odor of alcohol
- 12. Odor of marijuana
- 13. Dry mouth (frequent swallowing/lip wetting)
- 14. Dizziness or fainting
- 15. Shaking hands or body tremors/twitching
- 16. Irregular or difficult breathing
- 17. Runny sores or sores around nostrils
- 18. Inappropriate wearing of sunglasses
- 19. Puncture marks or "tracks"
- 20. Other (please specify)

D. WRITTEN SUMMARY

Must summarize in detail and explain the items checked above and the facts and circumstances of the incident, employee response, supervisor actions, and any other pertinent information not previously noted. You must note the date, times, and location of reasonable suspicion testing or note if employee refused test. Attach additional sheets as needed.

Signature of Supervisor Date/Time Signature of Department Director Date/Time

APPENDIX D

City of Harlingen

Personnel Policy Manual

219 Sexual and Other Unlawful Harassment

Revised 04/2004

I. PURPOSE

The City of Harlingen is committed to providing a work environment which is free of unlawful harassment and intimidation. This policy applies to all City employees, citizens, vendors, and visitors to the workplace. City employees are entitled to a workplace free of unlawful harassment by management, supervisors, co-workers, vendors and citizens. Employees are also required to refrain from prohibited harassment of citizens, employees, and vendors.

II. POLICIES AND PROCEDURES

Sexual harassment and other forms of unlawful harassment are contrary to basic standards of conduct between individuals and are prohibited by federal and state law. Any employee who engages in any such behavior will be subject to corrective action up to and including termination of employment. Because of the City's strong disapproval of such inappropriate or offensive behavior, all employees must avoid any action, conduct, or behavior which could be viewed as sexual or other forms of prohibited harassment.

No retaliation will be permitted against employees who make a good faith charge or report of prohibited harassment.

A. DEFINITION

One form of unlawful discrimination is sexual harassment. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting an individual; or
- Such condition has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Examples of prohibited conduct include unwelcome discussion of sexual activities, touching, display of sexually explicit or suggestive pictures or cartoons, use of sexually suggestive gestures, sexual remarks about physical attributes, unwelcome propositions, profanity and off-color jokes.

City of Harlingen

Personnel Policy Manual

219 Sexual and Other Unlawful Harassment

Revised 04/2004

B. OTHER FORMS OF PROHIBITED HARRASSMENT

Harassment of employees on the basis of race, religion, color, marital status, national origin, age, disability or any other characteristic, protected by law is also prohibited. Slurs, jokes, offensive or derogatory comments, or other verbal or physical conduct based on these characteristics is unlawful if the conduct creates an intimidating, hostile, or offensive working environment, or unreasonably interferes with the individual's work performance. Slurs, epithets, offensive jokes, and derogatory comments have no place in the workplace. Conduct, comments, or innuendos that may be perceived by others as offensive, are wholly inappropriate and are strictly prohibited. This policy also prohibits sending, showing, sharing, or distributing in any form, inappropriate jokes, pictures, stories, etc., via facsimile, INTERNET, voice mail, or other electronic means.

C. COMPLAINT REVIEW PROCEDURES

Human Resources is responsible for the review of sexual and other unlawful harassment complaints. Investigators from other departments may conduct and/or assist Human Resources with unlawful harassment complaint investigations. The procedures for handling unlawful harassment complaints are as follows:

1. Reporting

Any employee who feels he or she has been subjected to unlawful harassment, who observes prohibited harassment in the workplace, or who otherwise becomes aware of it must report it immediately to his or her Department Director. If for any reason the employee does not feel comfortable discussing the matter with the Department Director, or if the Department Director has not been able to resolve the matter satisfactorily, the employee must contact the City's Human Resources Director, his/her designee, or the City Manager.

Any Supervisor, Manager or Department Director who becomes aware of possible sexual or other unlawful harassment must immediately advise the Human Resources Director or the Manager.

If Human Resources is initially notified of a complaint, Human Resources will immediately notify the appropriate Department Director. All reports of sexual harassment will be fully investigated immediately.

2. Investigation

Each sexual or other unlawful harassment complaint will be investigated, regardless of when it was reported. The individuals will be interviewed regarding the nature of the allegations and instructed not to discuss the details of the incident(s) with anyone other than the complaint investigator, while the investigation is pending. Upon request, the complainant may be interviewed by a representative of the same sex. At the discretion of the investigator, interviews may be recorded in written, audio and/or video format.

City of Harlingen

Personnel Policy Manual

219 Sexual and Other Unlawful Harassment

Revised 04/2004

3. Administrative Leave

When warranted, the Department Director may place the respondent and/or complainant on administrative leave with pay pending complete investigation.

4. Allegation Discussion

If appropriate, investigators will meet with the respondent's Department Director to discuss the allegation.

5. Determination Filing

Within ten workdays of the investigation conclusion, the city attorney and the respondent's Department Director will be provided with a determination as to the validity of the complainant's allegations.

D. DEPARTMENT DIRECTOR ACTION

Department Directors will take the following actions:

1. Disciplinary Action Decisions

Disciplinary actions, up to and including termination, will be imposed upon any employee who is found to have engaged in conduct prohibited by this policy. (Note: A transfer of the complainant may be considered only upon the complainant's request and/or approval.)

2. Department Director Respondents

If the Department Director is the respondent, these actions will be taken by the appropriate Manager.

3. Sexual Harassment Prevention

It will be the ongoing responsibility of the Department Director or his/her representatives to monitor work areas for inappropriate sexual and other inappropriate displays, comments or behavior and take necessary action.

E. RECORDKEEPING

All records concerning sexual and other unlawful harassment investigations, except those affected by civil service statutes, are to be kept in a separate locked file in Human Resources. Access shall be approved by the Human Resources Director.

III. APPENDICES

A. Sexual and Other Unlawful Harassment Complaint Form

THIS PAGE INTENTIONALLY LEFT BLANK

COMPLAINT OF SEXUAL HARASSMENT (Continued)

5. Have you mentioned your concern/complaint to others? Yes No If so, who and when?

6. Do(es) the person(s) you are complaining about know you are filing this formal complaint?
 Yes No If "Yes," how does he/she know? _____

7. Did your supervisor or other member of management know about your concern/complaint prior to your filing of this complaint? Yes No If so, who and when?

Please attach any other information pertinent to our investigative efforts.

The information provided above is, to the best of my knowledge, factual.

Printed Name

Date

Signature

Received by

Date

APPENDIX A

City of Harlingen Personnel Policy Manual

220 Workplace Searches

Revised 04/2004

I. PURPOSE

This procedure describes the City of Harlingen's policy regarding workplace searches.

II. POLICIES AND PROCEDURES

It is the City's policy, when deemed necessary by management, for authorized persons to conduct unannounced searches and inspections of both City property and personal items including vehicles, brought onto City property or used to conduct City business. Refusal to cooperate in a search, inspection, or investigation will likely result in disciplinary action up to and including termination.

A minimum of three management personnel are required to conduct a search; all searches must be authorized in advance by the City Manager and conducted under the direction of the Department Director or the Manager's designee. One of the persons observing the search must be of the same gender as the person whose belongings are being searched.

The following may be searched:

- City property including, for example, offices, file cabinets, lockers, computers or other spaces individually assigned, whether secured, unsecured or secured by a lock provided by the employee.
- Personal property brought onto City of Harlingen property or used to conduct City business including, for example vehicles, briefcases, purses or wallets, bags, removable clothing.

Employees are not entitled to any expectation of privacy with respect to such items.

Any search under this policy will be done in a manner protecting employee's privacy, confidentiality, and personal dignity to the greatest extent possible.

THIS PAGE INTENTIONALLY LEFT BLANK

City of Harlingen

Personnel Policy Manual

221 Workplace Violence

Revised 12/2015

I. PURPOSE

The City of Harlingen prohibits workplace violence to ensure a safe workplace.

II. POLICIES AND PROCEDURES

A. PROHIBITED CONDUCT

The City does not tolerate any type of workplace violence committed by or against employees. Employees are prohibited from making threats or engaging in violent activities. The following list of behaviors, while not all inclusive, provides examples of conduct that is prohibited.

- Causing physical injury to another person;
- Making threatening remarks;
- Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
- Intentionally damaging employer property or property of another employee;
- Possession of a weapon,
 - ❖ Employees, with the exception of those described in the following paragraph, are prohibited from possessing, carrying, or storing a concealed handgun or any 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 reserve officer or security officer duties 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, carrying, or storing a handgun or any other weapon on the property leased, owned or controlled by the City of Harlingen. 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.
- Committing acts motivated by, or related to, sexual harassment or domestic violence.

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

City of Harlingen

Personnel Policy Manual

221 Workplace Violence

Revised 12/2015

B. REPORTING PROCEDURES

Any potentially dangerous situations must be reported immediately to a supervisor, Department Director, or the Human Resources Department. Behaviors include:

- Discussing weapons or bringing them to the workplace;
- Displaying overt signs of resentment, hostility, or anger;
- Making threatening remarks;
- Sudden or significant deterioration of performance;
- Displaying irrational or inappropriate behavior.

Reports can be made anonymously and all reported incidents will be investigated. Reports or incidents warranting confidentiality will be handled appropriately and information will be disclosed to others only on a need-to-know basis. All parties involved in a situation may be counseled.

All individuals who apply for or obtain a protective or restraining order which lists City locations as being protected areas, must provide to management a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order which is made permanent. Likewise, all employees must immediately advise their Department Director or the City Manager's Office if any protective or restraining order is issued against them.

C. EMERGENCY SITUATIONS

Employees who confront or encounter an armed or dangerous person should not attempt to challenge or disarm the individual. Employees should remain calm, make constant eye contact and talk to the individual. If a supervisor can be safely notified of the need for assistance without endangering the safety of the employee or others, such notice should be given. Otherwise, cooperate and follow the instructions given.

D. ENFORCEMENT

Threats, threatening conduct, other acts of aggression or violence, or any other conduct in violation of this policy. Any employee determined to have committed such acts will be subject to disciplinary action, up to and including termination. Non-employees engaged in violent acts on the employer's premises will be reported to the proper authorities and fully prosecuted.