

CIVIL SERVICE COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

June 19, 2015

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VICE PRESIDENT

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COMMISSIONER

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COMMISSIONER

MICHAEL L. BROWN
EXECUTIVE OFFICER

The Honorable London Breed
President of the Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Subject: **Civil Service Commission Amendments to Rule 020 Series - Leaves of Absence, Implementing Compliance with California Labor Code Sections 245-249 (Healthy Workplace Healthy Family Act of 2014) – Applicable to All Employees**

Dear President Breed:

On May 18, 2015, the Civil Service commission voted to approve the revisions to Civil Service Commission Rule Series 020 – Leaves of Absences in accordance with the Charter and Civil Service Rules for immediate adoption following meet and discuss with the affected labor unions and interested stakeholders.

The approved revisions harmonize City policy with State Law and provide consistency in Sick Leave administration. The revisions were adopted on May 29, 2015 and will require final approval from the Board of Supervisors.

Sick Leave Changes

The series 020 Leaves of Absence rule amendments will include the following changes in compliance with California Labor Code Sections 245-249 (Healthy Workplace Healthy Family Act of 2014) to be effective July 1, 2015:

- 1) Decreases waiting time for access to accrued sick leave. All employees will be eligible on the 90th day of service.
- 2) Expands the definition of “child”.
- 3) Expands the qualifying family members for which employees may use paid sick leave.
- 4) Adds qualifying members such as children of any age or dependency status, grandparents, grandchildren and siblings.
- 5) Expands the permissible reasons for using preventive care for an employee or employee family member.
- 6) Expands use for victims of domestic violence, sexual assault or stalking.
- 7) Provides a sick leave benefit for employees exempt from sick leave accrual under current Civil Service Rules.

- 8) Automatic forfeiture of accrued sick leave after separation of service. This will increase from six (6) months to twelve (12) months from date of separation.

Request For Approval (Charter Section 10.101)

Pursuant to City Charter Section 10.101, the Civil Service Commission is forwarding the rule amendments on sick leave for approval. We hope the information provided will be sufficient for you to carry a motion forward for approval. If additional information is needed, please feel free to contact me directly at (415) 252-3250.

Attached is a copy of Sections 245-249 of the Labor Code, the Civil Service Commission rule amendments, and the motion approving amendments to Civil Service Commission Rule Series 020 Leaves of Absence.

CIVIL SERVICE COMMISSION



MICHAEL L. BROWN
Executive Officer

Attachments

1. California Labor Code Sections 245-249
2. Civil Service Rule Series 020 Amendments
3. Motion Approving Amendments to Civil Service Commission Rule Series 020 Leaves of Absence

Cc: Dennis Normandy, President, CSC
Douglas Chan, Vice-President, CSC
Kate Favetti, Member, CSC
Scott Heldfond, Member, CSC
Gina Roccanova, Member, CSC
Micki Callahan, Human Resources Director
Paul Zarefsky, Office of the City Attorney
Sandra Eng, Assistant Executive Officer

ATTACHEMENT 1

LABOR CODE

SECTION 245-249

245. (a) This article shall be known and may be cited as the Healthy Workplaces, Healthy Families Act of 2014.

(b) The provisions of this article are in addition to and independent of any other rights, remedies, or procedures available under any other law and do not diminish, alter, or negate any other legal rights, remedies, or procedures available to an aggrieved person.

245.5. As used in this article:

(a) "Employee" does not include the following:

(1) An employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, and expressly provides for paid sick days or a paid leave or paid time off policy that permits the use of sick days for those employees, final and binding arbitration of disputes concerning the application of its paid sick days provisions, premium wage rates for all overtime hours worked, and regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate.

(2) An employee in the construction industry covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, premium wage rates for all overtime hours worked, and regular hourly pay of not less than 30 percent more than the state minimum wage rate, and the agreement either (A) was entered into before January 1, 2015, or (B) expressly waives the requirements of this article in clear and unambiguous terms. For purposes of this subparagraph, "employee in the construction industry" means an employee performing onsite work associated with construction, including work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, repair work, and any other work as described by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and other similar or related occupations or trades.

(3) A provider of in-home supportive services under Section 14132.95, 14132.952, or 14132.956 of, or Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, the Welfare and Institutions Code.

(4) An individual employed by an air carrier as a flight deck or cabin crew member that is subject to the provisions of Title II of the federal Railway Labor Act (45 U.S.C. 181 et seq.), provided that the individual is provided with compensated time off equal to or exceeding the amount established in paragraph (1) of subdivision (b) of Section 246.

(b) "Employer" means any person employing another under any appointment or contract of hire and includes the state, political subdivisions of the state, and municipalities.

(c) "Family member" means any of the following:

(1) A child, which for purposes of this article means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.

(2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.

(3) A spouse.

(4) A registered domestic partner.

(5) A grandparent.

(6) A grandchild.

(7) A sibling.

(d) "Health care provider" has the same meaning as defined in paragraph (6) of subdivision (c) of Section 12945.2 of the Government Code.

(e) "Paid sick days" means time that is compensated at the same wage as the employee normally earns during regular work hours and is provided by an employer to an employee for the purposes described in Section 246.5.

246. (a) An employee who, on or after July 1, 2015, works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.

(b) (1) An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later.

(2) An employee who is exempt from overtime requirements as an administrative, executive, or professional employee under a wage order of the Industrial Welfare Commission is deemed to work 40 hours per workweek for the purposes of this section, unless the employee's normal workweek is less than 40 hours, in which case the employee shall accrue paid sick days based upon that normal workweek.

(c) An employee shall be entitled to use accrued paid sick days beginning on the 90th day of employment, after which day the employee may use paid sick days as they are accrued.

(d) Accrued paid sick days shall carry over to the following year of employment. However, an employer may limit an employee's use of paid sick days to 24 hours or three days in each year of employment. This section shall be satisfied and no accrual or carry over is required if the full amount of leave is received at the beginning of each year, in accordance with subdivision (e).

(e) An employer is not required to provide additional paid sick days pursuant to this section if the employer has a paid leave policy or paid time off policy, the employer makes available an amount of leave that may be used for the same purposes and under the same conditions as specified in this section, and the policy does either of the following:

(1) Satisfies the accrual, carry over, and use requirements of this section.

(2) Provides no less than 24 hours or three days of paid sick leave, or equivalent paid leave or paid time off, for employee use for each year of employment or calendar year or 12-month basis.

(f) (1) Except as specified in paragraph (2), an employer is not required to provide compensation to an employee for accrued, unused paid sick days upon termination, resignation, retirement, or other separation from employment.

(2) If an employee separates from an employer and is rehired by the employer within one year from the date of separation, previously accrued and unused paid sick days shall be reinstated. The employee shall be entitled to use those previously accrued and unused paid sick days and to accrue additional paid sick days upon rehiring.

(g) An employer may lend paid sick days to an employee in advance of accrual, at the employer's discretion and with proper documentation.

(h) An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages. The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

(i) An employer has no obligation under this section to allow an employee's total accrual of paid sick leave to exceed 48 hours or 6 days, provided that an employee's rights to accrue and use paid sick leave under this section are not otherwise limited.

(j) An employee may determine how much paid sick leave he or she needs to use, provided that an employer may set a reasonable minimum increment, not to exceed two hours, for the use of paid sick leave.

(k) The rate of pay shall be the employee's hourly wage. If the employee in the 90 days of employment before taking accrued sick leave had different hourly pay rates, was paid by commission or piece rate, or was a nonexempt salaried employee, then the rate of pay shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

(l) If the need for paid sick leave is foreseeable, the employee shall provide reasonable advance notification. If the need for paid sick leave is unforeseeable, the employee shall provide notice of the need for the leave as soon as practicable.

(m) An employer shall provide payment for sick leave taken by an employee no later than the payday for the next regular payroll period after the sick leave was taken.

246.5. (a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:

(1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

(2) For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1.

(b) An employer shall not require as a condition of using paid sick days that the employee search for or find a replacement worker to cover the days during which the employee uses paid sick days.

(c) (1) An employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend,

or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by this article.

(2) There shall be a rebuttable presumption of unlawful retaliation if an employer denies an employee the right to use accrued sick days, discharges, threatens to discharge, demotes, suspends, or in any manner discriminates against an employee within 30 days of any of the following:

(A) The filing of a complaint by the employee with the Labor Commissioner or alleging a violation of this article.

(B) The cooperation of an employee with an investigation or prosecution of an alleged violation of this article.

(C) Opposition by the employee to a policy, practice, or act that is prohibited by this article.

247. (a) In each workplace of the employer, the employer shall display a poster in a conspicuous place containing all the information specified in subdivision (b). The Labor Commissioner shall create a poster containing this information and make it available to employers.

(b) The poster shall state all of the following:

(1) An employee is entitled to accrue, request, and use paid sick days.

(2) The amount of sick days provided for by this article.

(3) The terms of use of paid sick days.

(4) That retaliation or discrimination against an employee who requests paid sick days or uses paid sick days, or both, is prohibited and that an employee has the right under this article to file a complaint with the Labor Commissioner against an employer who retaliates or discriminates against the employee.

(c) An employer who willfully violates the posting requirements of this section is subject to a civil penalty of not more than one hundred dollars (\$100) per each offense.

247.5. An employer shall keep for at least three years records documenting the hours worked and paid sick days accrued and used by an employee, and shall allow the Labor Commissioner to access these records pursuant to the requirements set forth in Section 1174. An employer shall make these records available to an employee in the same manner as described in Section 226. If an employer does not maintain adequate records pursuant to this section, it shall be presumed that the employee is entitled to the maximum number of hours accruable under this article, unless the employer can show otherwise by clear and convincing evidence.

248.5. (a) The Labor Commissioner shall enforce this article, including investigating an alleged violation, and ordering appropriate temporary relief to mitigate the violation or to maintain the status quo pending the completion of a full investigation or

hearing.

(b) (1) If the Labor Commissioner, after a hearing that contains adequate safeguards to ensure that the parties are afforded due process, determines that a violation of this article has occurred, he or she may order any appropriate relief, including reinstatement, backpay, the payment of sick days unlawfully withheld, and the payment of an additional sum in the form of an administrative penalty to an employee or other person whose rights under this article were violated.

(2) If paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty.

(3) If a violation of this article results in other harm to the employee or person, such as discharge from employment, or otherwise results in a violation of the rights of the employee or person, the administrative penalty shall include a sum of fifty dollars (\$50) for each day or portion thereof that the violation occurred or continued, not to exceed an aggregate penalty of four thousand dollars (\$4,000).

(c) Where prompt compliance by an employer is not forthcoming, the Labor Commissioner may take any appropriate enforcement action to secure compliance, including the filing of a civil action. In compensation to the state for the costs of investigating and remedying the violation, the commissioner may order the violating employer to pay to the state a sum of not more than fifty dollars (\$50) for each day or portion of a day a violation occurs or continues for each employee or other person whose rights under this article were violated.

(d) An employee or other person may report to the Labor Commissioner a suspected violation of this article. The commissioner shall encourage reporting pursuant to this subdivision by keeping confidential, to the maximum extent permitted by applicable law, the name and other identifying information of the employee or person reporting the violation. However, the commissioner may disclose that person's name and identifying information as necessary to enforce this article or for other appropriate purposes, upon the authorization of that person.

(e) The Labor Commissioner or the Attorney General may bring a civil action in a court of competent jurisdiction against the employer or other person violating this article and, upon prevailing, shall be entitled to collect legal or equitable relief on behalf of the aggrieved as may be appropriate to remedy the violation, including reinstatement, backpay, the payment of sick days unlawfully withheld, the payment of an additional sum, not to exceed an aggregate penalty of four thousand dollars (\$4,000), as liquidated damages in the amount of fifty dollars (\$50) to each employee or person whose rights under this article were violated for each day or portion thereof that the violation occurred or continued, plus, if the employer has unlawfully withheld paid sick days to an employee, the dollar amount of paid sick days withheld from the employee multiplied by three; or two hundred fifty dollars (\$250), whichever amount is greater; and reinstatement in employment or injunctive relief; and further shall be awarded reasonable attorney's fees and costs, provided, however, that any person or entity enforcing this article on behalf of the public as provided for under applicable

state law shall, upon prevailing, be entitled only to equitable, injunctive, or restitutionary relief, and reasonable attorney's fees and costs.

(f) In an administrative or civil action brought under this article, the Labor Commissioner or court, as the case may be, shall award interest on all amounts due and unpaid at the rate of interest specified in subdivision (b) of Section 3289 of the Civil Code.

(g) The remedies, penalties, and procedures provided under this article are cumulative.

(h) An employer shall not be assessed any penalty or liquidated damages under this article due to an isolated and unintentional payroll error or written notice error that is a clerical or an inadvertent mistake regarding the accrual or available use of paid sick leave. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

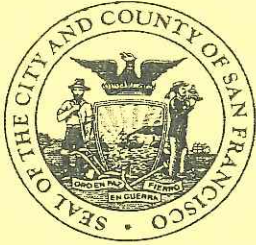
249. (a) This article does not limit or affect any laws guaranteeing the privacy of health information, or information related to domestic violence or sexual assault, regarding an employee or employee's family member. That information shall be treated as confidential and shall not be disclosed to any person except to the affected employee, or as required by law.

(b) This article shall not be construed to discourage or prohibit an employer from the adoption or retention of a paid sick days policy more generous than the one required herein.

(c) This article does not lessen the obligation of an employer to comply with a contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous sick days to an employee than required herein.

(d) This article establishes minimum requirements pertaining to paid sick days and does not preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of sick days, whether paid or unpaid, or that extends other protections to an employee.

ATTACHEMENT 2



CIVIL SERVICE COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

MEMORANDUM
CSC No. 2015 - 08

E. DENNIS NORMANDY
PRESIDENT

DOUGLAS S. CHAN
VICE PRESIDENT

KATE FAVETTI
COMMISSIONER

SCOTT R. HELDFOND
COMMISSIONER

GINA M. ROCCANOVA
COMMISSIONER

MICHAEL L. BROWN
EXECUTIVE OFFICER

DATE: June 5, 2015

TO: Department Heads
Departmental Personnel Officers
Employee Organization Representatives

FROM: Michael L. Brown
Executive Officer

SUBJECT: Civil Service Commission Rule Change No. 2000-78:
Amendments to Civil Service Commission Rule 020 Series –
Leaves of Absence, Implementing Compliance with California
Labor Code Sections 245-249 (Healthy Workplace Healthy Family
Act of 2014) – Applicable to All Employees

On May 18, 2015 the Civil Service Commission voted to approve the revisions to Civil Service Commission Rule Series 020 – Leaves of Absences in accordance with the Charter and Civil Service Rules for immediate adoption following meet and discuss with the affected labor unions and interested stakeholders. The approved revisions were adopted on May 29, 2015 and will require final approval from the Board of Supervisors.

The series 020 Leaves of Absence rule amendments will include the following changes in compliance with California Labor Code Sections 245-249 (Healthy Workplace Healthy Family Act of 2014) to be effective July 1, 2015:

- 1) Decreased waiting time for access to accrued sick leave for all employees.
- 2) Expanded definition of "child".
- 3) Expand the qualifying family members for which employees may use paid sick leave.
- 4) Add qualifying members such as children of any age or dependency status, grandparents, grandchildren and siblings.
- 5) Expand the permissible reasons for using preventive care for, an employee or
- 6) Preventive care for, an employee or an employee's family and for an employee who is a victim of domestic violence, sexual assault or stalking."
- 7) Provides a sick leave benefit for employees exempt from sick leave accrual under current Civil Service Rules.
- 8) Automatic forfeiture of accrued sick leave will increase from six (6) months to twelve (12) months from separation of service.

June 5, 2015

Page 2

A revised copy of the Amendment Control Sheet page V/VI dated May 29, 2015 is also attached. Substitute the updated pages for the corresponding page in your copy of the Civil Service Commission Rules Volume I, II, III and/or IV.

Sincerely,

CIVIL SERVICE COMMISSION



MICHAEL L. BROWN

Executive Officer

Attachments

cc: E. Dennis Normandy, President, CSC
Douglas S. Chan, Vice President, CSC
Kate Favetti, Commissioner, CSC
Scott R. Heldfond, Commissioner, CSC
Gina Roccanova, Commissioner, CSC
Micki Callahan, Human Resources Director

Rule Change No.	Adoption Date	Effective Date	Rule Section	Page Number	Action	Remarks
2000-57	2/6/12	2/6/12	Entire Rule	Entire Rule	Amend	Replace entire Rule 107 and page VI
2000-58	2/6/12	2/6/12	Entire Rule	Entire Rule	Amend	Replace entire Rule 118 and page VI
2000-60	6/18/12	6/18/12	Article VII	Entire Rule 112	Add	Replace entire Rule 112 & page VI
2000-61	3/18/13	3/18/13	Sections 110.3, 110.17 and 110.26	110.3, 110.8 & 110.10	Amend	Replace pages 110.2, 110.3, 110.8 – 110.10 & page VI
2000-63	5/6/13	5/6/13	Sections 103.2.3 - 103.2.5	103.4	Amend	Replace pages 103.4 – 103.5
2000-64	5/6/13	5/6/13	Sections 115.12.2, 115.13.2, 115.14.2 – 115.14.3	115.7 – 115.8	Amend	Replace pages 115.7 – 115.8 and page VI
2000-66	11/18/13	11/18/13	Section 104.1	104.2 – 104.3	Amend	Replace pages 104.2 – 104.3 and page VI
2000-68	4/21/14	4/21/14	Sections 122.13 and 122.14	122.1 and 122.17	Amend	Replace pages 122.1, 122.16 – 122.17 and page VI
2000-72	8/18/14	8/18/14	Sections 111A.24.3 & 111A.28	111A.13 & 111A.15	Amend	Replace pages 111A.12 – 111A.15
2000-73	8/18/14	8/18/14	Sections 112.11.2, 112.13 & 112.19	112.6 – 112.7 & 112.9	Amend	Replace pages 112.5 – 112.10
2000-74	8/18/14	8/18/14	Sections 113.2 – 113.5; new 113.11 - 113.15	113.2 – 113.13	Amend	Replace pages 113.2 – 113.14 and page VI. <i>Note: Some Section Numbers have changed due to deletions and/or additions</i>
2000-76	1/23/15	1/23/15	Article VIII	112.2 and 112.26 – 112.30	Add	Replace pages 112.1-112.2 & VI; add pages 112.25 – 112.30
2000-78	5/29/15	5/29/15	Sections 120.1.6, 120.2, 120.4.1, 120.7.1, 120.7.6, 120.7.8, 120.7.9, 120.8.1, 120.8.2, 120.9.1 – 120.9.4, 120.10.2, 120.11, and 120.13.2	120.1 – 120.17, 120.20 – 120.21, 120.24 – 120.25, 120.28 – 120.29, 120.32 – 120.33	Amend	Replace pages 120.1 – 120.17, 120.20 – 120.21, 120.24 – 120.25, 120.28 – 120.29, 120.32 – 120.33 and page VI

Rule 120

Leaves of Absence

Applicability: Rule 120 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superseded by a collective bargaining agreement for those employees subject to Charter Section A8.409. However, all definitions in Rule 120 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service-Critical classes as covered in Volumes II, III and IV.

Article I: Leaves of Absence - General Requirements

Article II: Sick Leave - General Provisions

Article III: Sick Leave With Pay

Article IV: Sick Leave Without Pay

Article V: Compulsory Sick Leave

Article VI: Disability Leave

Article VII: Military, War Effort and Sea Duty Leaves

Article VIII: Unpaid Administrative Leave or Furlough

Article IX: Other Leaves of Absence

Article X: Appeal Procedures

Rule 120

Leaves of Absence

Article I: Leaves of Absence - General Requirements

Applicability: Rule 120 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superseded by a collective bargaining agreement for those employees subject to Charter Section A8.409. However, all definitions in Rule 120 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service-Critical classes as covered in Volumes II, III and IV.

Sec. 120.1 Leaves of Absence - General Requirements

- 120.1.1** Leaves of absence, hereinafter referred to in this Rule as "leave," shall be governed by the provisions of this Rule. For the purpose of this Rule, "appointing officer" shall mean all elected officials; all department heads designated by the Charter as appointing officers; and all Boards and Commissions when officiating as appointing officers.
- 120.1.2** Requests for leave shall be subject to the approval of the appointing officer or designee. The decision of the appointing officer or designee is final unless provision for appeal is specifically granted in this Rule. Such requests for appeal shall be processed in accordance with the appeal procedure provided in this Rule. Requests for military, maternity, or witness or jury duty leave shall be granted as provided herein.
- 120.1.3** Except for vacation leave, witness or jury duty leave, compulsory sick leave, disability leave or unpaid administrative leave, an employee requesting a leave for more than five (5) working days shall submit such request to the appointing officer or designee on the form prescribed by the Human Resources Director. Requests for sick leave in excess of five (5) continuous working days shall be certified by a licensed medical doctor, doctor of dental surgery, doctor of podiatric medicine, licensed clinical psychologist, Christian Science Practitioner or licensed doctor of chiropractic. Verification of sick leave with pay for less than five (5) working days (seven (7) calendar days in the case of part-time employees) as provided elsewhere in this Rule shall be required on an individual basis only and shall be based upon an evaluation of the individual attendance record of an employee. For employees taking sick leave pursuant to Administrative Code Chapter 12W or Labor Code Sections 245-249, the City may take reasonable measures to verify or document that an employee's use of sick leave is taken in accordance with Administrative Code Chapter 12W or Labor Code Sections 245-249.

Sec. 120.1 Leaves of Absence - General Requirements (cont.)

- 120.1.4 The Human Resources Director may direct that leave requests be retained in the department and maintained in a manner so as to be readily available for audit, review or analysis by Department of Human Resources and Office of Labor Standards Enforcement staff.
- 120.1.5 Except as otherwise provided in these Rules, leave granted for the period stated on the prescribed form may be extended or abridged only with the approval of the appointing officer or designee. An employee who does not return to work on the approved date shall be deemed as away without official leave and shall be subject to automatic resignation as provided elsewhere in these Rules.
- 120.1.6 Except when an employee requesting sick leave has accumulated unused sick leave with pay credits and except for employees eligible for military leave with pay, organ or bone marrow donor leave with pay, witness or jury duty leave, disability leave or leave due to battery as provided elsewhere in this Rule, or for authorized holiday or vacation, leaves shall be without pay.
- 120.1.7 Refer to the Probationary Period Rule on leave during the probationary period.
- 120.1.8 Exempt employees shall be granted paid sick leave on the ninetieth (90th) day of service. The decision of the appointing officer shall be final and not subject to appeal.
- 120.1.9 An appointee shall not be required to sign a resignation form as a condition of approval of a leave.
- 120.1.10 Leaves granted under this Rule shall be indicated on timerolls as designated by the Controller.
- 120.1.11 An authorized leave granted under this Rule shall not be considered as a break in the continuous service of an employee.

Rule 120

Leaves of Absence

Article II: Sick Leave - General Provisions

Applicability: Rule 120 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superseded by a collective bargaining agreement for those employees subject to Charter Section A8.409. However, all definitions in Rule 120 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service-Critical classes as covered in Volumes II, III and IV.

Sec. 120.2 Eligibility for Sick Leave

Subject to the provisions of this Rule, employees and officers (hereinafter called "employees") who are absent from their duties due to their own illness or disability, or that of a qualifying family member, including preventive care, such as medical or dental appointments, and employees who are victims of domestic violence, sexual assault or stalking, are eligible for sick leave.

Sec. 120.3 Sick Leave - Exclusions from Eligibility

This Rule shall not apply to certificated employees of the School Districts, employees under personal services contracts, elective officers, and members of Boards and Commissions.

Sec. 120.4 Verification of Sick Leave

120.4.1 The appointing officer or designee to whom application for sick leave is made may make such independent investigation as to the necessity for sick leave as is deemed proper and may require certification for any period of sick leave, provided that the employee has been previously notified in writing that such certification for absence of less than five (5) working days shall be required. For employees taking sick leave pursuant to Administrative Code Chapter 12W or Labor Code Sections 245-249, the City may take reasonable measures to verify or document that an employee's use of sick leave is taken in accordance with Administrative Code Chapter 12W or Labor Code Sections 245-249.

120.4.2 The Human Resources Director may at any time make such independent investigation as may be deemed proper regarding the illness of any person on sick leave.

Sec. 120.5 Retirement Automatically Terminates Sick Leave

Sick leave shall automatically terminate on the effective date of an employee's retirement.

Sec. 120.6 Abridgment of Sick Leave

Sick leaves granted in excess of five (5) working days may be abridged if the employee presents to the appointing officer or designee medical evidence of capability to resume all the duties of the position.

Sec. 120.7 Definition of Sick Leave

A leave granted under this Rule for one of the following reasons shall be known as "sick leave":

120.7.1 Sick Leave - Medical Reasons

Absence for diagnosis, care or treatment of a health condition, including alcoholism, , or preventive care, and for employees who are victims of domestic violence, sexual assault or stalking, but excluding illness or injury arising out of and in the course of City and County employment, Absence due to illness or injury arising out of and in the course of employment is administered either under the Rules of the Retirement Board and is referred to as "disability leave" and may be supplemented as provided elsewhere in this Rule or under the provisions of this Rule and the Administrative Code for those employees injured by battery ("leave due to battery).

120.7.2 Sick Leave - Quarantine

Absence during a period of quarantine established and declared by the Department of Public Health or other authority.

120.7.3 Sick Leave - Bereavement

Absence because of the death of the employee's spouse or domestic partner, parents, step parents, grandparents, parents-in-law or parents of a domestic partner, sibling, child, step child, adopted child, a child for whom the employee has parenting responsibilities, aunt or uncle, legal guardian, or any person who is permanently residing in the household of the employee. Such leave shall not exceed three (3) working days and shall be taken within thirty (30) calendar days after the date of death; however, two (2) additional working days shall be granted in conjunction

Sec. 120.7 **Definition of Sick Leave (cont.)****120.7.3** **Sick Leave – Bereavement (cont.)**

with the bereavement leave if travel outside the State of California is required as a result of the death.

For absence because of the death of any other person to whom the employee may be reasonably deemed to owe respect; leave shall be for not more than one (1) working day; however, two (2) additional working days shall be granted if travel outside the State of California is required as a result of the person's death.

120.7.4 **Sick Leave - Maternity**

Absence due to the employee's pregnancy or convalescent period following childbirth. Such leave shall not exceed six (6) months provided that such leave may be extended for permanent employees if a physician certifies that a longer convalescence period is required. Such extensions shall be subject to the provisions of this Rule governing sick leave without pay.

120.7.5 **Sick Leave - Parental Leave**

Absence due to the birth of a child to the employee, the employee's spouse, or the employee's domestic partner or assumption by the employee of parenting or child rearing responsibilities either by adoption or foster care.

120.7.6 **Sick Leave - Illness or Medical Appointment of a Family Member**

Absence for diagnosis, care or treatment of a health condition or injury, or for preventive care for an employee's family member, defined as follows:

1. A child, which for the purposes of this section means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.
2. A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.
3. A spouse.
4. A registered domestic partner.
5. A grandparent.
6. A grandchild.
7. A sibling.

120.7.7 Sick Leave Pursuant to Administrative Code Chapter 12W

- 1) Absence due to the illness, injury, medical care, treatment, diagnosis or medical appointment of the employee; employee's child; parent; legal guardian or ward; sibling; grandparent; grandchild; and spouse, registered domestic partner under any state law, or "designated person." The aforementioned child, parent, sibling, grandparent, and grandchild relationships include not only biological relationships but also relationships resulting from adoption; step-relationships; and foster care relationships. "Child" includes a child of a domestic partner and a child of a person standing in loco parentis.
- 2) For the purpose of this section, the definition of "designated person" is: one person designated by an employee who has no spouse or registered domestic partner, as the person for whom the employee may use paid sick leave to aid or care for under this section. The opportunity to make such a designation shall be extended to the employee no later than the date on which the employee has worked thirty (30) hours after paid sick leave begins to accrue. There shall be a window of ten (10) business days for the employee to make this designation. Thereafter, the opportunity to make such a designation, including the opportunity to change such a designation previously made, shall be extended to the employee on an annual basis, with a window of ten (10) business days for the employee to make the designation.

120.7.8 Sick Leave Pursuant to Labor Code Sections 245-249

Absence for the following purposes: (1) diagnosis, care, or treatment of an existing health condition of, or preventive care for an employee or an employee's family member; or (2) for an employee who is a victim of domestic violence, sexual assault, or stalking, described in Labor Code Section 230, subdivision (c) and Labor Code Section 230.1, subdivision (a).

120.7.9 Sick Leave - Compulsory

Leave imposed by an appointing officer due to an employee's medical inability or incapacity to perform all the duties of the position as provided elsewhere in this Rule.

Rule 120

Leaves of Absence

Article III: Sick Leave with Pay

Applicability: Rule 120 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superseded by a collective bargaining agreement for those employees subject to Charter Section A8.409. However, all definitions in Rule 120 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service-Critical classes as covered in Volumes II, III and IV.

Sec. 120.8 Sick Leave with Pay Eligibility

120.8.1 Sick leave with pay may be granted to employees who have accrued paid sick leave on the ninetieth (90th) day of service, except that supplemental disability credits may be used to supplement disability indemnity payments as provided elsewhere in this Rule regardless of length of service and except that an authorized leave of absence with or without pay granted under this Rule shall not be considered as a break in the continuous service of an employee.

120.8.2 A break in service of more than twelve (12) continuous months by any employee other than an employee designated as a "holdover" will cause prior accumulated sick leave with pay credits to be canceled and eligibility for sick leave with pay must be re-established.

120.8.3 Sick leave with pay credits will continue to accrue at the normal rate while an employee is on either furlough or voluntary unpaid time off in accordance with this Rule, for a maximum of up to ten (10) days per fiscal year for imposed furlough or twenty (20) days per fiscal year for voluntary unpaid time off.

Sec. 120.9 Sick Leave with Pay Eligibility Pursuant to Administrative Code Chapter 12W effective February 5, 2007, and Labor Code Sections 245-249 effective July 1, 2015 Applicable to Employees Not Otherwise Qualified for Sick Leave

120.9.1 Sick leave with pay may be granted to said employees, on the ninetieth (90th) day of service.

Sec. 120.9 Sick Leave with Pay Eligibility Pursuant to Administrative Code Chapter 12W effective February 5, 2007, and Labor Code Sections 245-249 effective July 1, 2015 Applicable to Employees Not Otherwise Qualified for Sick Leave (cont.)

120.9.2 Employees hired on or before February 5, 2007, shall immediately be eligible to accrue and use sick leave with pay credits under this section.

120.9.3 A complete separation in service for twelve (12) continuous months by an employee, other than an employee designated as a “holdover” will cause prior accumulated sick leave with pay credits to be cancelled and eligibility for sick leave with pay must be re-established.

120.9.4 Employees rehired within one (1) year following a separation will not be subject to the ninety (90) calendar day eligibility period and any previously accrued and unused sick leave hours will be reinstated.

Sec. 120.10 Sick Leave with Pay - Maximum Accumulation of Credits

120.10.1 Sick Leave with Pay – Maximum Accumulation of Credits

Sick leave with pay credits shall be cumulative but the accumulated balance of unused sick leave with pay credits for other employees, the hourly equivalent of 130 working days based on the regular daily work schedule as defined, provided that in no case may the total accumulated unused sick leave with pay credit balance exceed 1040 hours. Maximum accumulated sick leave with pay credits shall be reduced proportionately for employees entering a class or position where the regular work schedule is less than the class exiting if such employees have accumulated unused sick leave with pay credits in excess of the maximum allowable for the new class or position. Such employees shall have all such credits restored upon return to a class or position with an increased regular work schedule.

120.10.2 Maximum Accumulation of Credits Pursuant to Administrative Code Chapter 12W effective February 5, 2007, and Labor Code Sections 245-249 effective July 1, 2015 Applicable to Employees Not Otherwise Qualified for Sick Leave

Sick leave with pay credits shall be cumulative but the accumulated balance of unused sick leave with pay credits shall not exceed seventy-two (72) hours under Administrative Code chapter 12W, and forty-eight (48) hours under Labor Code Sections 245-249.

Sec. 120.11 Sick Leave with Pay - Restrictions

- 120.11.1 Sick leave with pay, beyond that authorized by law, is a privilege recognized by Charter and by Ordinance of the Board of Supervisors and should be requested and granted only in cases of absence because of illness which incapacitates the employee for the performance of duties or as otherwise defined in this Rule.
- 120.11.2 An appointing officer or designee may require proof of incapacitation before granting sick leave with pay for any period of time and may withhold pay for failure to submit such proof provided that the employee had been previously notified in writing that such proof would be required for absences of less than five (5) working days.
- 120.11.3 The rate of earning and accumulating sick leave with pay credits and authorization for its use under this Rule shall in no way inhibit or restrict the right of an appointing officer to establish standards of attendance.

Sec. 120.12 Prohibition Against Employment While on Sick Leave with Pay

- 120.12.1 Employees are prohibited from working in any other employment while on sick leave with pay unless, after considering the medical reason for the sick leave with pay, the appointing officer with the approval of the Human Resources Director, grants permission for the employee to engage in a secondary employment subject to the provisions of these Rules governing such employment.
- 120.12.2 Violators of this section are subject to disciplinary action as provided in the Charter.

Sec. 120.13 Calculation of Sick Leave with Pay Credits

- 120.13.1 Unless otherwise provided in this Rule or by ordinance, sick leave with pay credits shall be earned at the rate of .05 hours for each hour of regularly scheduled paid service excluding, overtime exceeding forty (40) hours per week and holiday pay, except that an employee on disability leave shall earn sick leave with pay credits at the normal rate.
- 120.13.2 Exempt employees shall accrue paid sick leave at a rate of one (1) hour per every thirty (30) hours worked, excluding holiday pay.
- 120.13.3 When provided in a Memorandum of Understanding, Class 2320 Registered Nurses who are regularly scheduled to work two (2) twelve (12) hour shifts every weekend in the pilot project shall earn sick leave

Sec. 120.13 Calculation of Sick Leave with Pay Credits (cont.)**120.13.3 (cont.)**

with pay credits at the rate of .075 hours for each hour of regularly scheduled paid service actually worked during her/his regularly scheduled twelve hour shifts. This Rule shall apply only to those 2320 Registered Nurses who are regularly scheduled to work two 12 hour shifts on weekends in the San Francisco General Hospital Pilot Project.

Sec. 120.14 Disbursement of Sick Leave with Pay Credits

120.14.1 Sick leave with pay credits shall be used and deducted at the minimum rate in units of one hour for those employees whose credits are calculated in hours.

120.14.2 When provided in a Memorandum of Understanding, Class 2320 Registered Nurses who are regularly scheduled to work two (2) twelve (12) hour shifts every weekend in the pilot project, and who use sick leave during any portion of such shifts, shall be entitled to use and deduct sick leave with pay credits at the rate of 1.5 hours for each hour of such sick leave, e.g., sick leave for four (4) hours of a shift = six (6) hours sick leave with pay. The benefits of this Rule shall be available only to a 2320 Registered Nurse who is regularly scheduled to work two (2) twelve (12) hour shifts on weekends in the San Francisco General Hospital Pilot Project, and who is required to use sick leave during some of all of her/his regularly scheduled twelve (12) hour shifts on weekends during the pilot project.

Sec. 120.15 Conversion of Sick Leave with Pay Credits from Days to Hours

Sick leave with pay credit balances shall be converted from days to hours based on the equivalent number of hours in such employee's sick leave with pay credit balances. The equivalent number of hours shall be based on the employee's authorized normal daily work schedule in effect on the effective date of this amended Rule, except if the Human Resources Director determines that such conversion is inequitable and allows another formula to be used.

Sec. 120.16 Employees Injured by Battery

120.16.1 An employee absent because of bodily injury or illness received in the course of employment and caused by an act of criminal violence shall be entitled to sick leave with pay under the provisions of the Administrative Code.

120.16.2 Sick leave with pay under this section shall be known as "leave due to battery" and shall be subject to approval by the Human Resources

Sec. 120.16 Employees Injured by Battery (cont.)**120.16.2 (cont.)**

Director. The Human Resources Director shall make such investigation as is deemed appropriate and may include medical examinations by a physician(s) designated by the Human Resources Director.

120.16.3 The decision of the Human Resources Director may be appealed to the Commission whose decision is final.

120.16.4 Authorized sick leave under this section shall not be charged against earned sick leave with pay credits.

Sec. 120.17 Appeal of Denial of Sick Leave with Pay

Denial of sick leave with pay to an appointee who is eligible and qualified for such leave is appealable as provided elsewhere in this Rule.

Sec. 120.18 Reimbursement of Vested and Unused Accumulated Sick Leave with Pay Credits Balance

120.18.1 An employee who had accumulated unused sick leave with pay credits and who had completed the service requirement on or before December 5, 1978, shall upon the effective date of retirement for service or disability, or upon the date of death, or upon the date of separation caused by industrial accident, be reimbursed for the accumulated unused sick leave with pay credit balance which had been earned on or before December 5, 1978, and not subsequently used ("vested and unused accumulated sick leave with pay credits") in accordance with the following schedule of service requirements and allowances.

Schedule of Service Requirements and Allowances for Reimbursement of Vested and Unused Accumulated Sick Leave with Pay Credit Balance at the Time of Retirement, Separation Because of Accident or Death	
Service Requirement	Amount of Cash Reimbursement
15 or more years of service	100%
More than 5 continuous years but less than 15 continuous years of service	50%
Up to and including 5 continuous years of service	33.3%

Sec. 120.18 **Reimbursement of Vested and Unused Accumulated Sick Leave with Pay Credits Balance (cont.)**

120.18.2 Reimbursement for the vested and unused accumulated sick leave with pay credit balance shall be further subject to the following:

- 1) The Human Resources Director shall administer the provisions of this section.
- 2) Deduction shall be made from the unused accumulated sick leave with pay credit balance which existed on December 5, 1978, in an amount proportional to any credits used of that balance. Reimbursement shall be made only for the adjusted amount with all credits from the December 5, 1978, balance subsequently used being deducted.
- 3) Reimbursement for the vested and unused accumulated sick leave with pay credit balance shall be payable at the time of retirement, separation caused by industrial accident or death, or at a later date when so selected by the employee, but within one (1) year of such retirement, separation or death.
- 4) Reimbursement is to be computed at the base rate of pay of an employee's permanent class, at the base rate of pay of the class of a temporary or provisional employee with no permanent status, or at the base rate of pay in a temporary or provisional appointment of an employee with permanent status in another class who has held such temporary or provisional appointment continuously for one (1) or more years at the time of separation.
- 5) No reimbursement shall be made for unused sick leave with pay credits earned on or after December 6, 1978.
- 6) The enactment of this section is not intended to constitute additional compensation, nor be a part of the rate of pay of the employee, but is reimbursement for the vested and unused accumulated sick leave with pay credit balance to which an employee would have been entitled if the employee had not retired, separated due to industrial injury or died.

Rule 120 Leaves of Absence

Article IV: Sick Leave without Pay

Applicability: Rule 120 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superseded by a collective bargaining agreement for those employees subject to Charter Section A8.409. However, all definitions in Rule 120 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service-Critical classes as covered in Volumes II, III and IV.

Sec. 120.19 Sick Leave without Pay - Eligibility

Subject to the provisions of this section, sick leave without pay may be granted to employees who are not eligible for sick leave with pay or, subject to the approval of the appointing officer or designee, employees may choose not to use their sick leave with pay credits.

Sec. 120.20 Sick Leave without Pay - Temporary and Provisional Employees

Sick leave without pay may be granted to temporary or provisional employees. Such leave shall be renewed monthly and shall not be extended beyond three (3) calendar months except for sick leave - maternity.

Sec. 120.21 Sick Leave without Pay - Permanent Employees

- 120.21.1** Sick leave without pay may be approved for permanent employees for the period of the illness provided that requests for prolonged leave shall be renewed every three (3) months and provided further that such leave shall not be extended beyond a period of one (1) continuous year unless the physician designated by the Human Resources Director advises that there is a reasonable probability that the employee will be able to return to employment.
- 120.21.2** If the physician designated by the Human Resources Director determines that there is no reasonable probability that the employee will be able to return to duty, the appointing officer shall have good cause for discharge.
- 120.21.3** The physician designated by the Human Resources Director may defer certification of capability for additional periods of three (3)-month intervals up to one (1) additional year.

Sec. 120.22 Prohibition Against Employment While on Sick Leave Without Pay

120.22.1 Employees are prohibited from working in any other employment when on sick leave without pay unless, after considering the medical reason for the sick leave without pay, the appointing officer with the approval of the Human Resources Director, grants permission for the employee to engage in outside employment.

120.22.2 Violators of this section are subject to disciplinary action.

Rule 120

Leaves of Absence

Article V: Compulsory Sick Leave

Applicability: Rule 120 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superseded by a collective bargaining agreement for those employees subject to Charter Section A8.409. However, all definitions in Rule 120 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service-Critical classes as covered in Volumes II, III and IV.

Sec. 120.23 Compulsory Sick Leave

- 120.23.1** An appointing officer or designee who has reason to believe that an employee is not medically or physically competent to perform assigned duties, and if allowed to continue in employment or return from leave may represent a risk to co-workers, the public and the employee, may require the employee to present a medical report from a physician designated by the Human Resources Director certifying the employee's medical or physical competency to perform the required duties.
- 120.23.2** If the employee refuses to obtain such physician's certificate or if as a result of a medical evaluation, the employee is found not to be medically or physically competent, the appointing officer or designee may place the employee on compulsory sick leave and shall immediately report such action to the Human Resources Director.
- 120.23.3** An employee shall remain on compulsory sick leave until such time as the employee is found to be competent to return to duty by a physician designated by the Human Resources Director, but such leave shall not exceed the maximum period of sick leave provided in this Rule.
- 120.23.4** The employee placed on sick leave under the provisions of this section may appeal as provided under the appeal provisions of the Medical Examination Rule.
- 120.23.5** An employee placed on compulsory sick leave is ineligible for employment with the City and County and shall be placed under waiver on all lists on which the employee's name appears and shall otherwise be unemployable.

Rule 120

Leaves of Absence

Article VI: Disability Leave

Applicability: The provisions of Rule 120 apply to all officers and employees except for the Uniformed Ranks of the Police and Fire Departments or MTA Service-Critical Classes; or as noted or as specifically excluded, or except as may be superseded by a collective bargaining agreement for those employees subject to Charter Section A8.409. However, all definitions in this Rule are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service-Critical Classes as covered in Volumes II, III and IV.

Sec. 120.24 Disability Leave

- 120.24.1** Absence due to illness or injury arising out of and in the course of employment is defined as "disability leave" and is administered under the State Workers' Compensation Laws and the Rules of the Retirement Board.
- 120.24.2** An employee who is absent because of disability leave and who is receiving disability indemnity payments may request, by submitting a signed option statement to the employee's department no later than ninety (90) days following the employee's release from disability leave, that the amount of disability indemnity payment be supplemented with salary to be charged against the employee's supplemental disability credits so as to equal the full salary the employee would have earned for the regular work schedule. The regular work schedule shall be that schedule in effect at the commencement of the disability leave.
- 120.24.3** Supplemental disability credits shall be an account separate from, but equivalent to, the employee's accumulated unused sick leave with pay credit balance except that the supplemental disability credit account shall be adjusted as provided below.
- 120.24.4** Failure to exercise the option to supplement disability indemnity payments within ninety (90) calendar days following release from disability leave will preclude later requests.
- 120.24.5** Supplemental disability credits shall be used at the minimum rate in units of one (1) hour.
- 120.24.6** The employee's department shall submit separate timerolls to reflect this action only after the Retirement System certifies the amount of disability indemnity payment, if any, for the period.

Rule 120 Leaves of Absence

Article VII: Military, War Effort and Sea Duty Leaves

Applicability: Rule 120 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superseded by a collective bargaining agreement for those employees subject to Charter Section A8.409. However, all definitions in Rule 120 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service-Critical classes as covered in Volumes II, III and IV.

Sec. 120.26 Military Leave

120.26.1 Military leave is governed by the provisions of applicable Federal and State laws, by Charter provision and by this Rule.

120.26.2 **Time of War - Definition**

The phrase "time of war" is defined elsewhere in these Rules.

120.26.3 **Military Leave - Time of War**

Leaves of absence shall be granted to officers and employees for service in the armed forces of the United States or the State of California or for service on ships operated by or for the United States government in time of war and for a period not to exceed three (3) months after the conclusion of such service, but not later than one (1) year after the cessation of hostilities, except in case of disability incurred while in active service with the armed forces or the merchant marines when such disability shall extend beyond such period.

120.26.4 **Military Leave - Time of Peace**

Whenever any officer or employee shall, by order of the government of the United States or by lawful order of any of its departments or officers, or by lawful order of the State of California, or any of its departments or officers, be directed in time of peace to report and serve in the armed forces of the United States, or in the armed forces of the State of California, said officer or employee shall be entitled to a leave of absence from the employee's office or position during the time of such service and for a period not to exceed three (3) months after the expiration thereof.

Sec. 120.26 Military Leave (cont.)**120.26.5 Military Leave - Permanent Appointees**

Any officer or employee on military leave, who prior to such leave has been appointed to a permanent position in the City and County service, shall be entitled to resume such position at the expiration of the leave, and in determining and fixing rights, seniority, salary and otherwise which have accrued and shall inure to the benefit of such officer or employee, the term of military leave shall be considered and accounted as part of the employee's service to the City and County.

120.26.6 Military Leave - Proof of Duty

Officers and employees requesting military leave shall file with the Human Resources Director a copy of the orders necessitating such service prior to the effective date of the leave of absence and upon return from such leave shall submit a copy of the discharge or release.

120.26.7 Military Leave - Salary While on Temporary Leave

Employees who have been employed by the City and County or any other public agency or have been on military duty for a period of not less than one (1) year continuously prior to the date upon which temporary military leave not exceeding 180 calendar days begins shall, as required by the State of California Military and Veterans' Code (Section 395), receive their regular salary or compensation for a period not to exceed thirty (30) calendar days of such military leave in any fiscal year or more than thirty (30) calendar days during any period of continuous military leave.

120.26.8 Military Leave - Probationary Appointees

Refer to the Probationary Period Rule on leave during the probationary period.

120.26.9 Military Leave - Eligible Not Reached for Certification While in Service - Time of War

An eligible on a regular civil service list, who served on active military duty not including reserve service during time of war who presents an honorable discharge or certificate of honorable active service within one (1) year from the date of release from military service, shall be preferred for certification for a period of four (4) years after the cessation of hostilities in the order of standing upon the eligible list at the time of entrance into military service and before candidates procuring standing through an examination held subsequent to the entrance of such eligibles into the military service.

Rule 120 Leaves of Absence

Article VIII: Unpaid Administrative Leave or Furlough

Applicability: Rule 120 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superseded by a collective bargaining agreement for those employees subject to Charter Section A8.409. However, all definitions in Rule 120 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service-Critical classes as covered in Volumes II, III and IV.

Sec. 120.30 Unpaid Administrative Leave or Furlough

120.30.1 General Provisions

- 1) Notwithstanding the layoff and involuntary leave provisions or any other provisions of these Rules, an appointing officer is authorized to impose unpaid administrative leave (furlough) on any employee within that appointing officer's jurisdiction as provided in this section. The imposition of furloughs shall be subject to receipt of a Projected Deficit Notice (PDN) from the Controller stating that the department's budget will be insufficient to support the department's level of spending through the end of the fiscal year.
- 2) The authority of the appointing officer to impose furloughs shall be limited to those furloughs necessary to correct the projected deficit identified by the Controller.
- 3) This Rule shall apply to all employees of the City and County.
- 4) The Superintendent of the San Francisco Unified School District and the Chancellor of the San Francisco Community College District shall also be authorized to furlough any employee in the classified service upon their individual determinations that, based upon a review of projected revenues and expenditures, the budget will be insufficient to support the District's level of spending through the end of the fiscal year.
- 5) No provision of Layoff and Involuntary Leave, including but not limited to any provision regarding the order of layoff, displacement of less senior employees, or reinstatement, shall be applicable to any employees furloughed hereunder.

Sec. 120.30 Unpaid Administrative Leave or Furlough (cont.)**120.30.2 Voluntary Unpaid Time Off**

- 1) Prior to imposing a furlough on any employee, an appointing officer shall attempt to determine, to the extent feasible and with due consideration for the time constraints which may exist for eliminating the projected deficit, the interest of employees within the appointing officer's jurisdiction in taking unpaid personal time off on a voluntary basis.
- 2) The appointing officer shall have full discretion to approve or deny requests for voluntary unpaid time off based on the operational needs of the department and any court decrees or orders pertinent thereto. The decision of the appointing officer shall be final except in cases where requests for voluntary unpaid time off in excess of ten (10) working days are denied. In such cases, an employee may appeal in accordance with the procedures provided below for appealing imposition of furlough.
- 3) An employee shall be entitled to take up to ten (10) unpaid days per fiscal year at the rate of no more than five (5) days in a three (3) month period, at the employee's discretion, upon at least fifteen (15) calendar days prior written notice to the employee's appointing officer. Such request shall not be denied except for the reason of a requirement that such position be filled on an overtime or premium pay basis, for essential operational needs or the requirements of a court decree or order.

120.30.3 Furloughs

- 1) Appointing officers are encouraged to furlough entire operational units within departments rather than individual employees; or stagger work hours within an operational unit on a reduced hours basis. The decision of the appointing officer to impose furloughs under this subsection, and the appointing officer's determination of what constitutes an operational unit, shall be final.
- 2) Where, in the discretion of the appointing officer, furlough of an operational unit as prescribed above is not feasible, individual employees within an operational unit may be furloughed.
- 3) To the extent practicable, furlough shall be equitably distributed among all of the employees in the affected department or operational unit to which the Projected Deficit Notice (PDN) has application; and, all of the employees in the affected class(es).

Rule 120 Leaves of Absence

Article IX: Other Leaves of Absence

Applicability: Rule 120 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superseded by a collective bargaining agreement for those employees subject to Charter Section A8.409. However, all definitions in Rule 120 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service-Critical classes as covered in Volumes II, III and IV.

Sec. 120.31 Leave to Accept Other City and County Position

120.31.1 Leave by an employee who has completed the probationary period to accept exempt or temporary appointment in the City and County service may be approved for the duration of such appointment. Such leave by a probationary employee is subject to the provisions of the Rule governing the Probationary Period.

120.31.2 Denial of such leave by the appointing officer is appealable as provided elsewhere in this Rule.

Sec. 120.32 Educational Leave

120.32.1 Educational leave is defined as leave for the purpose of educational or vocational training in a field related to the employee's current position and as any training to which a veteran is entitled pursuant to the laws of the United States or the State of California.

120.32.2 Educational leave may be approved for permanent appointees for a period of up to one (1) year. Requests for educational leave of longer than one (1) year must be renewed each year.

120.32.3 Denial of educational leave is appealable as provided elsewhere in this Rule.

120.32.4 An employee on educational leave shall not accept other employment without approval of the appointing officer and the Human Resources Director, except for employment in vacant positions with the City and County during school vacations.

Sec. 120.32 Educational Leave (cont.)

120.32.5 As soon as records are available, the employee shall periodically present to the appointing officer a record of completed educational work. These records shall be maintained in such a manner as to be readily available for audit by Department of Human Resources staff. Failure to submit an acceptable record of completed educational work shall subject the employee to disciplinary action as provided in the Charter.

Sec. 120.33 Leave for Civilian Service in the National Interest

120.33.1 Civilian service in the national interest is defined as leave to serve with a federal, state or other public agency or non-profit organization in a program or in a capacity which the Human Resources Director deems to be in the national or general public interest.

120.33.2 Such leave may be approved for permanent appointees for a period of up to one (1) year. Requests for such leave of longer than one (1) year must be renewed each year.

120.33.3 Denial of such leave is appealable as provided elsewhere in this Rule.

Sec. 120.34 Leave for Employment as an Employee Organization Officer or Representative

120.34.1 Leave for employment as an employee organization officer or representative is defined as leave to serve full-time as an officer or representative of an employee organization whose membership includes City employees, or to attend a convention or other type of business meeting of an employee organization as an officer or delegate of the employee organization.

120.34.2 Leave for permanent appointees may be approved for the duration of such service.

120.34.3 Denial of such leave is appealable as provided elsewhere in this Rule.

Sec. 120.35 Family Care Leave**120.35.1 Definition of Family**

A unit of interdependent and interacting persons, related together over time by strong social and emotional bonds and/or by ties of marriage, birth, and adoption, whose central purpose is to create, maintain, and promote the social, mental, physical and emotional development and well being of each of its members.

Sec. 120.40 **Religious Leave**

- 120.40.1 Employees may be granted leave when personal religious beliefs require that the employee abstain from work during certain periods of the work day or work week. Such leave shall be known as "Religious Leave."
- 120.40.2 Religious leave shall be without pay unless the employee elects to use accumulated compensatory time off, vacation time, or floating holiday time.
- 120.40.3 Denial of religious leave is appealable as provided elsewhere in this Rule.

Sec. 120.41 **Personal Leave**

- 120.41.1 Personal leave is defined as leave for reasons other than those covered in other sections of this Rule.
- 120.41.2 Personal leave for permanent employees may be approved for a period of up to twelve (12) months within any two (2)-year period. Personal leave for temporary or provisional employees may be approved only if replacement of the employee is not required and for a maximum of one (1) month.
- 120.41.3 On the request of an appointing officer, the Human Resources Director, may for reasons deemed to be in the best interest of the service approve extension of personal leave for permanent employees beyond a twelve (12)-month period.

Rule 120 Leaves of Absence

Article X: Appeal Procedures

Applicability: Rule 120 shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes; or as noted or as specifically excluded, or except as may be superseded by a collective bargaining agreement for those employees subject to Charter Section A8.409. However, all definitions in Rule 120 are applicable to employees in all classes; excluding only the Uniformed Ranks of the Police and Fire Departments and the MTA Service-Critical classes as covered in Volumes II, III and IV.

Sec. 120.42 Appeal Procedures

120.42.1 Appeals concerning furloughs or voluntary unpaid time off are excluded from appeal under this section and are appealable as provided elsewhere in this Rule.

120.42.2 In cases where appeal is specifically granted in this Rule, a dispute concerning the application or implementation of the provisions of this Rule shall be processed EITHER, at the option of the employee:

- 1) in accordance with the grievance procedure provided by the Human Resources Director for unrepresented employees or in a collective bargaining agreement.
- 2) by appeal in writing to the Human Resources Director, whose decision shall be final and shall not be reconsidered by the Commission. A decision under one option shall preclude the use of the other option.

Rule Change No.	Adoption Date	Effective Date	Rule Section	Page Number	Action	Remarks
2000-50	3/3/08	3/3/08	220.29	220.23	Add and Amend	Replace pages 220.22 – 220.34 & page V
2000-52	12/15/08	12/15/08	205.1.3	205.2	Amend	Replace pages 205.2 – 205.3 & page V
2000-53	3/16/09	3/16/09	Entire Rule	Entire Rule	Add and Amend	Replace entire Rule 218 & page V
2000-55	6/1/09	6/1/09	203.12	203.1, 203.4 – 203.6	Add	Replace pages 203.1, 203.4 – 203.6 & page V
2000-56	8/2/10	8/2/10	213.3.3, 213.7	213.1, 213.4 – 213.7	Amend	Replace pages 213.1, 213.4 – 213.7 & page V
2000-57	2/6/12	2/6/12	Entire Rule	Entire Rule	Amend	Replace entire Rule 207 & page V
2000-58	2/6/12	2/6/12	Entire Rule	Entire Rule	Amend	Replace entire Rule 218 & page V
2000-61	3/18/13	3/18/13	Section 210.2	210.2	Amend	Replace pages 210.2 – 210.3 and page V
2000-63	5/6/13	5/6/13	Sections 203.9.3 – 203.9.5	203.4	Amend	Replace pages 203.4 – 203.6
2000-64	5/6/13	5/6/13	Sections 215.12.2, 215.13.2, 215.14.2 – 215.14.3	215.7 – 215.8	Amend	Replace pages 215.7 – 215.8 and page V
2000-66	11/18/13	11/18/13	Sections 204.1	204.2 – 204.3	Amend	Replace pages 204.2 – 204.3 and page V
2000-67	12/16/13	12/16/13	Sections 211.3	Entire Rule	Add and Amend	Replace entire Rule 211 and page V
2000-68	4/21/13	4/21/13	Sections 222.10 and 222.11	222.1 and 222.11	Amend	Replace pages 222.1, 222.10 – 222.11 and page V
2000-78	5/59/15	5/29/15	Sections 220.1.3, 220.1.6, 220.1.7, 220.2, 220.4.1, 220.7.1, 220.7.6, 220.7.8, 220.8.1, 220.8.2, 220.9.1, 220.9.3, 220.9.4, 220.10.2, 220.11.1, 220.13.2	220.2 – 220.10	Amend	Replace pages 220.2 – 220.11 & page V

Rule 220

Leaves of Absence

Article I: Leaves of Absence - General Requirements

Applicability: Rule 220 shall apply to all classes of the Uniformed Ranks of the San Francisco Police Department, except that the provisions of Rule 220 may be superseded in whole or in part by the collective bargaining agreement, except for the definitions in this Rule which are applicable to employees in all classes.

Sec. 220.1 Leaves of Absence - General Requirements

- 220.1.1** Leaves of absence, hereinafter referred to in this Rule as "leave," shall be governed by the provisions of this Rule. For the purpose of this Rule, "appointing officer" shall mean all elected officials; all department heads designated by the Charter as appointing officers; and all Boards and Commissions when officiating as appointing officers.
- 220.1.2** Requests for leave shall be subject to the approval of the appointing officer or designee. The decision of the appointing officer or designee is final unless provision for appeal is specifically granted in this Rule. Such requests for appeal shall be processed in accordance with the appeal procedure provided in this Rule. Requests for military, maternity, or witness or jury duty leave shall be granted as provided herein.
- 220.1.3** Except for vacation leave, witness or jury duty leave, compulsory sick leave, disability leave or unpaid administrative leave, an employee requesting a leave for more than five (5) working days shall submit such request to the appointing officer or designee on the form prescribed by the Human Resources Director. Requests for sick leave in excess of five (5) continuous working days shall be certified by a licensed medical doctor, doctor of dental surgery, doctor of podiatric medicine, licensed clinical psychologist, Christian Science Practitioner or licensed doctor of chiropractic. Verification of sick leave with pay for less than five (5) working days (seven (7) calendar days in the case of part-time employees) as provided elsewhere in this Rule shall be required on an individual basis only and shall be based upon an evaluation of the individual attendance record of an employee. For employees taking sick leave pursuant to Administrative Code Chapter 12W or Labor Code Sections 245-249, the City may take reasonable measures to verify or document that an employee's use of sick leave is taken in accordance with Administrative Code Chapter 12W or Labor Code Sections 245-249.

Sec. 220.1 **Leaves of Absence - General Requirements (cont.)**

- 220.1.4 The Human Resources Director may direct that leave requests be retained in the department and maintained in a manner so as to be readily available for audit, review or analysis by Department of Human Resources and Office of Labor Standards Enforcement staff.
- 220.1.5 Except as otherwise provided in these Rules, leave granted for the period stated on the prescribed form may be extended or abridged only with the approval of the appointing officer or designee. An employee who does not return to work on the approved date shall be deemed as away without official leave and shall be subject to automatic resignation as provided elsewhere in these Rules.
- 220.1.6 Except when an employee requesting sick leave has accumulated unused sick leave with pay credits and except for employees eligible for military leave with pay, organ or bone marrow donor leave with pay witness or jury duty leave, disability leave or leave due to battery as provided elsewhere in this Rule, or for authorized holiday or vacation, leaves shall be without pay.
- 220.1.7 Refer to the Probationary Period Rule on leave during the probationary period.
- 220.1.8 Exempt employees shall be granted paid sick leave on the ninetieth (90) day of service. The decision of the appointing officer shall be final and not subject to appeal.
- 220.1.9 An appointee shall not be required to sign a resignation form as a condition of approval of a leave.
- 220.1.10 Leaves granted under this Rule shall be indicated on time rolls as designated by the Controller.
- 220.1.11 An authorized leave granted under this Rule shall not be considered as a break in the continuous service of an employee.

Rule 220

Leaves of Absence

Article II: Sick Leave - General Provisions

Applicability: Rule 220 shall apply to all classes of the Uniformed Ranks of the San Francisco Police Department, except that the provisions of Rule 220 may be superseded in whole or in part by the collective bargaining agreement, except for the definitions in this Rule which are applicable to employees in all classes.

Sec. 220.2 **Eligibility for Sick Leave**

Subject to the provisions of this Rule, employees and officers (hereinafter called "employees") who are absent from their duties due to their own illness or disability, or that of a qualifying family member, including preventive care, such as medical or dental appointments, and employees who are victims of domestic violence, sexual assault or stalking, are eligible for sick leave.

Sec. 220.3 **Sick Leave - Exclusions from Eligibility**

220.3.1 Sick leaves granted to members of the Uniformed Ranks of the Police Department shall be regulated by Rules adopted by the Police Commission. These Rules and any amendments thereto shall be subject to the approval of the Civil Service Commission and when so approved by the Civil Service Commission shall be deemed as included in this Rule. Calculation of sick leave with pay credits, reimbursement for vested and unused accumulated sick leave with pay credits and any provision not covered in the Rules of the Police Department shall be as provided in this Rule.

220.3.2 This Rule shall not apply to patrol special officers appointed by the Police Commission, employees under personal services contracts, elective officers, and members of Boards and Commissions.

Sec. 220.4 **Verification of Sick Leave**

220.4.1 The appointing officer or designee to whom application for sick leave is made may make such independent investigation as to the necessity for sick leave as is deemed proper and may require certification for any period of sick leave, provided that the employee has been previously notified in writing that such certification for absence of less than five (5) working days shall be required. For employees taking sick leave pursuant to Administrative Code Chapter 12W or Labor Code Sections 245-249, the City may take reasonable measures to verify or document that an employee's use of sick leave is taken in accordance with Administrative Code Chapter 12W or Labor Code Sections 245-249.

Sec. 220.4 **Verification of Sick Leave (cont.)**

220.4.2 The Human Resources Director may at any time make such independent investigation as may be deemed proper regarding the illness of any person on sick leave.

Sec. 220.5 **Retirement Automatically Terminates Sick Leave**

Sick leave shall automatically terminate on the effective date of an employee's retirement.

Sec. 220.6 **Abridgment of Sick Leave**

Sick leaves granted in excess of five (5) working days may be abridged if the employee presents to the appointing officer or designee medical evidence of capability to resume all the duties of the position.

Sec. 220.7 **Definition of Sick Leave**

A leave granted under this Rule for One of the following reasons shall be known as "sick leave":

220.7.1 **Sick Leave - Medical Reasons**

Absence for diagnosis, care or treatment of a health condition, including alcoholism, or preventive care, and for employees who are victims of domestic violence, sexual assault or stalking, but excluding illness or injury arising out of and in the course of City and County employment. Absence due to illness or injury arising out of and in the course of employment is administered either under the Rules of the Retirement Board and is referred to as "disability leave" and may be supplemented as provided elsewhere in this Rule or under the provisions of this Rule and the Administrative Code for those employees injured by battery ("leave due to battery").

220.7.2 **Sick Leave - Quarantine**

Absence during a period of quarantine established and declared by the Department of Public Health or other authority.

220.7.3 **Sick Leave - Bereavement**

Absence because of the death of the employee's spouse or domestic partner, parents, step parents, grandparents, parents-in-law or parents of a domestic partner, sibling, child, step child, adopted child, a child for whom the employee has parenting responsibilities, aunt or uncle, legal guardian, or any person who is permanently residing in the household of the employee. Such leave shall not exceed three (3) working days and

Sec. 220.7 **Definition of Sick Leave (cont.)****220.7.3** **Sick Leave – Bereavement (cont.)**

shall be taken within thirty (30) calendar days after the date of death; however, two (2) additional working days shall be granted in conjunction with the bereavement leave if travel outside the State of California is required as a result of the death.

For absence because of the death of any other person to whom the employee may be reasonably deemed to owe respect; leave shall be for not more than one (1) working day; however, two (2) additional working days shall be granted if travel outside the State of California is required as a result of the person's death.

220.7.4 **Sick Leave - Maternity**

Absence due to the employee's pregnancy or convalescent period following childbirth. Such leave shall not exceed six (6) months provided that such leave may be extended for permanent employees if a physician certifies that a longer convalescence period is required. Such extensions shall be subject to the provisions of this Rule governing sick leave without pay.

220.7.5 **Sick Leave - Parental Leave**

Absence due to the birth of a child to the employee, the employee's spouse, or the employee's domestic partner or assumption by the employee of parenting or child rearing responsibilities either by adoption or foster care.

220.7.6 **Sick Leave - Illness or Medical Appointment of a Family Member**

Absence for diagnosis, care or treatment of a health condition or injury, or for preventive care for an employee's family member, defined as follows:

- 1) A child, which for the purposes of this section means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.
- 2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.
- 3) A spouse.
- 4) A registered domestic partner.
- 5) A grandparent.
- 6) A grandchild.
- 7) A sibling.

Sec. 220.7 Definition of Sick Leave (cont.)**220.7.7 Sick Leave Pursuant to Administrative Code Chapter 12W**

1) Absence due to the illness, injury, medical care, treatment, diagnosis or medical appointment of the employee; employee's child; parent; legal guardian or ward; sibling; grandparent; grandchild; and spouse, registered domestic partner under any state law, or "designated person."

The aforementioned child, parent, sibling, grandparent, and grandchild relationships include not only biological relationships but also relationships resulting from adoption; step-relationships; and foster care relationships. "Child" includes a child of a domestic partner and a child of a person standing in loco parentis.

2) For the purpose of this section, the definition of "designated person" is: one person designated by an employee who has no spouse or registered domestic partner, as the person for whom the employee may use paid sick leave to aid or care for under this section. The opportunity to make such a designation shall be extended to the employee no later than the date on which the employee has worked thirty (30) hours after paid sick leave begins to accrue. There shall be a window of ten (10) business days for the employee to make this designation. Thereafter, the opportunity to make such a designation, including the opportunity to change such a designation previously made, shall be extended to the employee on an annual basis, with a window of ten (10) business days for the employee to make the designation.

220.7.8 Sick Leave Pursuant to Labor Code Sections 245-249

Absence for the following purposes: (1) diagnosis, care, or treatment of an existing health condition of, or preventive care for an employee or an employee's family member; or (2) for an employee who is a victim of domestic violence, sexual assault, or stalking, described in Labor Code Section 230, subdivision (c) and Labor Code Section 230.1, subdivision (a).

220.7.9 Sick Leave - Compulsory

Leave imposed by an appointing officer due to an employee's medical inability or incapacity to perform all the duties of the position as provided elsewhere in this Rule.

Rule 220 Leaves of Absence

Article III: Sick Leave with Pay

Applicability: Rule 220 shall apply to all classes of the Uniformed Ranks of the San Francisco Police Department, except that the provisions of Rule 220 may be superseded in whole or in part by the collective bargaining agreement, except for the definitions in this Rule which are applicable to employees in all classes.

Sec. 220.8 Sick Leave with Pay Eligibility

- 220.8.1** Sick leave with pay may be granted to employees who have accrued paid on the ninetieth (90th) day of service except that supplemental disability credits may be used to supplement disability indemnity payments as provided elsewhere in this Rule regardless of length of service and except that an authorized leave of absence with or without pay granted under this Rule shall not be considered as a break in the continuous service of an employee.
- 220.8.2** A break in service of more than twelve (12) continuous months by any employee other than an employee designated as a "holdover" will cause prior accumulated sick leave with pay credits to be canceled and eligibility for sick leave with pay must be re-established.
- 220.8.3** Sick leave with pay credits will continue to accrue at the normal rate while an employee is on either furlough or voluntary unpaid time off in accordance with this Rule, for a maximum of up to ten (10) days per fiscal year for imposed furlough or twenty (20) days per fiscal year for voluntary unpaid time off.

Sec. 220.9 Sick Leave with Pay Eligibility Pursuant to Administrative Code Chapter 12W effective February 5, 2007, and Labor Code Sections 245-249 effective July 1, 2015 Applicable to Employees Not Otherwise Qualified for Sick Leave

- 220.9.1** Sick leave with pay may be granted to said employees, on the ninetieth (90th) day of service.
- 220.9.2** Employees hired on or before February 5, 2007, shall immediately be eligible to accrue and use sick leave with pay credits under this section.
- 220.9.3** A complete separation in service for twelve (12) continuous months by an employee, other than an employee designated as a "holdover" will cause prior accumulated sick leave with pay credits to be canceled and eligibility for sick leave with pay must be re-established.

Sec. 220.9 **Sick Leave with Pay Eligibility Pursuant to Administrative Code Chapter 12W effective February 5, 2007, and Labor Code Sections 245-249 effective July 1, 2015 Applicable to Employees Not Otherwise Qualified for Sick Leave (cont.)**

220.9.4 Employees rehired within one (1) year following a separation will not be subject to the ninety (90) calendar day eligibility period and any previously accrued and unused sick leave hours will be reinstated.

Sec. 220.10 **Sick Leave with Pay - Maximum Accumulation of Credits**

220.10.1 **Sick Leave with Pay – Maximum Accumulation of Credits**

Sick leave with pay credits shall be cumulative but the accumulated balance of unused sick leave with pay credits shall not exceed the equivalent of six (6) months which is the hourly equivalent of 130 working days based on the regular daily work schedule as defined, provided that in no case may the total accumulated unused sick leave with pay credit balance exceed 1040 hours. Maximum accumulated sick leave with pay credits shall be reduced proportionately for employees entering a class or position where the regular work schedule is less than the class exiting if such employees have accumulated unused sick leave with pay credits in excess of the maximum allowable for the new class or position. Such employees shall have all such credits restored upon return to a class or position with an increased regular work schedule.

220.10.2 **Maximum Accumulation of Credits Pursuant to Administrative Code Chapter 12W effective February 5, 2007, and Labor Code Sections 245-249 effective July 1, 2015 Applicable to Employees Not Otherwise Qualified for Sick Leave**

Sick leave with pay credits shall be cumulative but the accumulated balance of unused sick leave with pay credits shall not exceed seventy-two (72) hours under Administrative Code Chapter 12W, and forty-eight (48) hours under Labor Code Sections 245-249.

Sec. 220.11 **Sick Leave with Pay - Restrictions**

220.11.1 Sick leave with pay, beyond that authorized by law, is a privilege recognized by Charter and by Ordinance of the Board of Supervisors and should be requested and granted only in cases of absence because of illness which incapacitates the employee for the performance of duties or as otherwise defined in this Rule.

Sec. 220.11 Sick Leave with Pay – Restrictions (cont.)

- 220.11.2 An appointing officer or designee may require proof of incapacitation before granting sick leave with pay for any period of time and may withhold pay for failure to submit such proof provided that the employee had been previously notified in writing that such proof would be required for absences of less than five (5) working days.
- 220.11.3 The rate of earning and accumulating sick leave with pay credits and authorization for its use under this Rule shall in no way inhibit or restrict the right of an appointing officer to establish standards of attendance.

Sec. 220.12 Prohibition Against Employment While on Sick Leave with Pay

- 220.12.1 Employees are prohibited from working in any other employment while on sick leave with pay unless, after considering the medical reason for the sick leave with pay, the appointing officer with the approval of the Human Resources Director, grants permission for the employee to engage in a secondary employment subject to the provisions of these Rules governing such employment.
- 220.12.2 Violators of this section are subject to disciplinary action as provided in the Charter.

Sec. 220.13 Calculation of Sick Leave with Pay Credits

- 220.13.1 Unless otherwise provided in this Rule or by ordinance, sick leave with pay credits shall be earned at the rate of .05 hours for each hour of regularly scheduled paid service excluding, overtime exceeding forty (40) hours per week and holiday pay, except that an employee on disability leave shall earn sick leave with pay credits at the normal rate.
- 220.13.2 Exempt employees shall accrue paid sick leave at a rate of one (1) hour per every thirty (30) hours worked, excluding holiday pay.

Sec. 220.14 Disbursement of Sick Leave with Pay Credits

Sick leave with pay credits shall be used and deducted at the minimum rate in units of one hour for those employees whose credits are calculated in hours.

Sec. 220.15 Conversion of Sick Leave with Pay Credits from Days to Hours

Sick leave with pay credit balances shall be converted from days to hours based on the equivalent number of hours in such employee's sick leave with pay credit balances. The equivalent number of hours shall be based on the employee's authorized normal daily work schedule in effect on the effective date of this amended Rule, except if the Human Resources Director determines that such conversion is inequitable and allows another formula to be used.

Sec. 220.16 **Employees Injured by Battery**

- 220.16.1 An employee absent because of bodily injury or illness received in the course of employment and caused by an act of criminal violence shall be entitled to sick leave with pay under the provisions of the Administrative Code.
- 220.16.2 Sick leave with pay under this section shall be known as "leave due to battery" and shall be subject to approval by the Human Resources Director. The Human Resources Director shall make such investigation as is deemed appropriate and may include medical examinations by a physician(s) designated by the Human Resources Director.
- 220.16.3 The decision of the Human Resources Director may be appealed to the Commission whose decision is final.
- 220.16.4 Authorized sick leave under this section shall not be charged against earned sick leave with pay credits.

Sec. 220.17 **Appeal of Denial of Sick Leave with Pay**

Denial of sick leave with pay to an appointee who is eligible and qualified for such leave is appealable as provided elsewhere in this Rule.

Sec. 220.18 **Reimbursement of Vested and Unused Accumulated Sick Leave with Pay Credits Balance**

- 220.18.1 An employee who had accumulated unused sick leave with pay credits and who had completed the service requirement on or before December 5, 1978, shall upon the effective date of retirement for service or disability, or upon the date of death, or upon the date of separation caused by industrial accident, be reimbursed for the accumulated unused sick leave with pay credit balance which had been earned on or before December 5, 1978, and not subsequently used ("vested and unused accumulated sick leave with pay credits") in accordance with the following schedule of service requirements and allowances.

Rule Change No.	Adoption Date	Effective Date	Rule Section	Page Number	Action	Remarks
2000-78	5/29/15	5/29/15	320.1.3, 320.1.6, 320.1.8, 320.2, 320.4.1, 320.7.1, 320.7.6, 320.7.8, 320.8.1 – 320.8.2, 320.9.1, 320.9.3 – 320.9.4, 320.10.2, 320.11.1, 320.13.2	320.2 – 320.13	Amend	Replace pages 320.2 – 320.13 and page V

Rule 320

Leaves of Absence

Article I: Leaves of Absence - General Requirements

Applicability: Rule 320 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department, except that the provisions of Rule 320 may be superseded in whole or in part by the collective bargaining agreement, except for the definitions in this Rule which are applicable to employees in all classes.

Sec. 320.1 Leaves of Absence - General Requirements

- 320.1.1** Leaves of absence, hereinafter referred to in this Rule as "leave," shall be governed by the provisions of this Rule. For the purpose of this Rule, "appointing officer" shall mean all elected officials; all department heads designated by the Charter as appointing officers; and all Boards and Commissions when officiating as appointing officers.
- 320.1.2** Requests for leave shall be subject to the approval of the appointing officer or designee. The decision of the appointing officer or designee is final unless provision for appeal is specifically granted in this Rule. Such requests for appeal shall be processed in accordance with the appeal procedure provided in this Rule. Requests for military, maternity, or witness or jury duty leave shall be granted as provided herein.
- 320.1.3** Except for vacation leave, witness or jury duty leave, compulsory sick leave, disability leave or unpaid administrative leave, an employee requesting a leave for more than five (5) working days shall submit such request to the appointing officer or designee on the form prescribed by the Human Resources Director. Requests for sick leave in excess of five (5) continuous working days shall be certified by a licensed medical doctor, doctor of dental surgery, doctor of podiatric medicine, licensed clinical psychologist, Christian Science Practitioner or licensed doctor of chiropractic. Verification of sick leave with pay for less than five (5) working days (seven (7) calendar days in the case of part-time employees) as provided elsewhere in this Rule shall be required on an individual basis only and shall be based upon an evaluation of the individual attendance record of an employee. For employees taking sick leave pursuant to Administrative Code Chapter 12W, the City may take reasonable measures to verify or document that an employee's use of sick leave is taken in accordance with Administrative Code Chapter 12W or Labor Code Sections 245-249.

Sec. 320.1 **Leaves of Absence - General Requirements (cont.)**

- 320.1.4** The Human Resources Director may direct that leave requests be retained in the department and maintained in a manner so as to be readily available for audit, review or analysis by Department of Human Resources and Office of Labor Standards Enforcement staff.
- 320.1.5** Except as otherwise provided in these Rules, leave granted for the period stated on the prescribed form may be extended or abridged only with the approval of the appointing officer or designee. An employee who does not return to work on the approved date shall be deemed as away without official leave and shall be subject to automatic resignation as provided elsewhere in these Rules.
- 320.1.6** Except when an employee requesting sick leave has accumulated unused sick leave with pay credits and except for employees eligible for military leave with pay, organ or bone marrow donor leave with pay, witness or jury duty leave, disability leave or leave due to battery as provided elsewhere in this Rule, or for authorized holiday or vacation, leaves shall be without pay.
- 320.1.7** Refer to the Probationary Period Rule on leave during the probationary period.
- 320.1.8** Exempt employees shall be granted paid sick leave on the ninetieth (90th) day of service. The decision of the appointing officer shall be final and not subject to appeal.
- 320.1.9** An appointee shall not be required to sign a resignation form as a condition of approval of a leave.
- 320.1.10** Leaves granted under this Rule shall be indicated on timerolls as designated by the Controller.
- 320.1.11** An authorized leave granted under this Rule shall not be considered as a break in the continuous service of an employee.

Rule 320 Leaves of Absence

Article II: Sick Leave - General Provisions

Applicability: Rule 320 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department, except that the provisions of Rule 320 may be superseded in whole or in part by the collective bargaining agreement, except for the definitions in this Rule which are applicable to employees in all classes.

Sec. 320.2 Eligibility for Sick Leave

Subject to the provisions of this Rule, employees and officers (hereinafter called "employees") who are absent from their duties due to their own illness or disability, or that of a qualifying family member, including preventive care, such as medical or dental appointments, and employees who are victims of domestic violence, sexual assault or stalking, are eligible for sick leave.

Sec. 320.3 Sick Leave - Exclusions from Eligibility

320.3.1 Sick leaves granted to members of the Uniformed Ranks of the Fire Department shall be regulated by Rules adopted by the Fire Commission. These Rules and any amendments thereto shall be subject to the approval of the Civil Service Commission and when so approved by the Civil Service Commission shall be deemed as included in this Rule. Calculation of sick leave with pay credits, reimbursement for vested and unused accumulated sick leave with pay credits and any provision not covered in the Rules of the Fire Department shall be as provided in this Rule.

320.3.2 This Rule shall not apply to certificated employees of the School Districts, patrol special officers appointed by the Police Commission, employees under personal services contracts, elective officers, and members of Boards and Commissions.

Sec. 320.4 Verification of Sick Leave

320.4.1 The appointing officer or designee to whom application for sick leave is made may make such independent investigation as to the necessity for sick leave as is deemed proper and may require certification for any period of sick leave, provided that the employee has been previously notified in writing that such certification for absence of less than five (5) working days shall be required.

Sec. 320.4 **Verification of Sick Leave (cont.)****320.4.1** **(cont.)**

For employees taking sick leave pursuant to Administrative Code Chapter 12W or Labor Code Sections 245-249, the City may take reasonable measures to verify or document that an employee's use of sick leave is taken in accordance with Administrative Code Chapter 12W or Labor Code Sections 245-249.

320.4.2 The Human Resources Director may at any time make such independent investigation as may be deemed proper regarding the illness of any person on sick leave.

Sec. 320.5 **Retirement Automatically Terminates Sick Leave**

Sick leave shall automatically terminate on the effective date of an employee's retirement.

Sec. 320.6 **Abridgment of Sick Leave**

Sick leaves granted in excess of five (5) working days may be abridged if the employee presents to the appointing officer or designee medical evidence of capability to resume all the duties of the position.

Sec. 320.7 **Definition of Sick Leave**

A leave granted under this Rule for one of the following reasons shall be known as "sick leave":

320.7.1 **Sick Leave - Medical Reasons**

Absence, for diagnosis, care or treatment of a health condition, including alcoholism, or preventive care, and for employees who are victims of domestic violence, sexual assault or stalking, but excluding illness or injury arising out of and in the course of City and County employment. Absence due to illness or injury arising out of and in the course of employment is administered either under the Rules of the Retirement Board and is referred to as "disability leave" and may be supplemented as provided elsewhere in this Rule or under the provisions of this Rule and the Administrative Code for those employees injured by battery ("leave due to battery").

320.7.2 **Sick Leave - Quarantine**

Absence during a period of quarantine established and declared by the Department of Public Health or other authority.

Sec. 320.7 **Definition of Sick Leave (cont.)****320.7.3** **Sick Leave - Bereavement**

Absence because of the death of the employee's spouse or domestic partner, parents, step parents, grandparents, parents-in-law or parents of a domestic partner, sibling, child, step child, adopted child, a child for whom the employee has parenting responsibilities, aunt or uncle, legal guardian, or any person who is permanently residing in the household of the employee. Such leave shall not exceed three (3) working days and shall be taken within thirty (30) calendar days after the date of death; however, two (2) additional working days shall be granted in conjunction with the bereavement leave if travel outside the State of California is required as a result of the death.

For absence because of the death of any other person to whom the employee may be reasonably deemed to owe respect; leave shall be for not more than one (1) working day; however, two (2) additional working days shall be granted if travel outside the State of California is required as a result of the person's death.

320.7.4 **Sick Leave - Maternity**

Absence due to the employee's pregnancy or convalescent period following childbirth. Such leave shall not exceed six (6) months provided that such leave may be extended for permanent employees if a physician certifies that a longer convalescence period is required. Such extensions shall be subject to the provisions of this Rule governing sick leave without pay.

320.7.5 **Sick Leave – Parental Leave**

Absence due to the birth of a child to the employee, the employee's spouse, or the employee's domestic partner or assumption by the employee of parenting or child rearing responsibilities either by adoption or foster care.

320.7.6 **Sick Leave - Illness or Medical Appointment of a Family Member**

Absence for diagnosis, care or treatment of a health condition or injury, or for preventive care for an employee's family member, defined as follows:

1. A child, which for the purposes of this section means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.

Sec. 320.7 **Definition of Sick Leave (cont.)****320.7.6** **Sick Leave - Illness or Medical Appointment of a Family Member (cont.)**

2. biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.
3. spouse.
4. A registered domestic partner.
5. A grandparent.
6. A grandchild.
7. A sibling.

320.7.7 **Sick Leave Pursuant to Administrative Code Chapter 12W**

- 1) Absence due to the illness, injury, medical care, treatment, diagnosis or medical appointment of the employee; employee's child; parent, legal guardian or ward; sibling; grandparent; grandchild; and spouse, registered domestic partner under any state law, or "designated person."

The aforementioned child, parent, sibling, grandparent, and grandchild relationships include not only biological relationships but also relationships resulting from adoption; step-relationships; and foster care relationships. "Child" includes a child of a domestic partner and a child of a person standing in loco parentis.

- 2) For the purpose of this section, the definition of "designated person" is: one person designated by an employee who has no spouse or registered domestic partner, as the person for whom the employee may use paid sick leave to aid or care for under this section. The opportunity to make such a designation shall be extended to the employee no later than the date on which the employee has worked thirty (30) hours after paid sick leave begins to accrue. There shall be a window of ten (10) business days for the employee to make this designation. Thereafter, the opportunity to make such a designation, including the opportunity to change such a designation previously made, shall be extended to the employee on an annual basis, with a window of ten (10) business days for the employee to make the designation.

320.7.8 **Sick Leave Pursuant to Labor Code Sections 245-249**

Absence for the following purposes: (1) diagnosis, care, or treatment of an existing health condition of, or preventive care for an employee or an employee's family member; or (2) for an employee who is a victim of domestic violence, sexual assault, or stalking, described in Labor Code Section 230, subdivision (c) and Labor Code Section 230.1, subdivision (a).

Sec. 320.7 Definition of Sick Leave (cont.)

320.7.9 **Sick Leave - Compulsory**

Leave imposed by an appointing officer due to an employee's medical inability or incapacity to perform all the duties of the position as provided elsewhere in this Rule.

Rule 320 Leaves of Absence

Article III: Sick Leave with Pay

Applicability: Rule 320 shall apply to all classes of the Uniformed Ranks of the San Francisco Fire Department, except that the provisions of Rule 320 may be superseded in whole or in part by the collective bargaining agreement, except for the definitions in this Rule which are applicable to employees in all classes.

Sec. 320.8 Sick Leave with Pay Eligibility

320.8.1 Sick leave with pay may be granted to employees who have accrued paid sick leave on the ninetieth (90th) day of service, except that supplemental disability credits may be used to supplement disability indemnity payments as provided elsewhere in this Rule regardless of length of service and except that an authorized leave of absence with or without pay granted under this Rule shall not be considered as a break in the continuous service of an employee.

320.8.2 A break in service of more than twelve (12) continuous months by any employee other than an employee designated as a "holdover" will cause prior accumulated sick leave with pay credits to be canceled and eligibility for sick leave with pay must be re-established.

320.8.3 Sick leave with pay credits will continue to accrue at the normal rate while an employee is on either furlough or voluntary unpaid time off in accordance with this Rule, for a maximum of up to ten (10) days per fiscal year for imposed furlough or twenty (20) days per fiscal year for voluntary unpaid time off.

Sec. 320.9 Sick Leave with Pay Eligibility Pursuant to Administrative Code Chapter 12W effective February 5, 2007, and Labor Code Sections 245-249 effective July 1, 2015 Applicable to Employees Not Otherwise Qualified for Sick Leave

320.9.1 Sick leave with pay may be granted to said employees, on the ninetieth (90th) day of service.

320.9.2 Employees hired on or before February 5, 2007, shall immediately be eligible to accrue and use sick leave with pay credits under this section.

320.9.3 A complete separation in service for twelve (12) continuous months by an employee, other than an employee designated as a "holdover" will cause prior accumulated sick leave with pay credits to be canceled and eligibility for sick leave with pay must be re-established.

Sec. 320.9 **Sick Leave with Pay Eligibility Pursuant to Administrative Code Chapter 12W effective February 5, 2007, and Labor Code Sections 245-249 effective July 1, 2015 Applicable to Employees Not Otherwise Qualified for Sick Leave (cont.)**

320.9.4 Employees rehired within one (1) year following a separation will not be subject to the ninety (90) calendar day eligibility period And any of previously accrued and unused sick leave hours will be reinstated.

Sec. 320.10 **Sick Leave with Pay - Maximum Accumulation of Credits**

320.10.1 **Sick Leave with Pay – Maximum Accumulation of Credits**

Sick leave with pay credits shall be cumulative but the accumulated balance of unused sick leave with pay credits shall not exceed the equivalent of six (6) months which is the hourly equivalent of 130 working days based on the regular daily work schedule as defined, provided that in no case may the total accumulated unused sick leave with pay credit balance exceed 1040 hours. Maximum accumulated sick leave with pay credits shall be reduced proportionately for employees entering a class or position where the regular work schedule is less than the class exiting if such employees have accumulated unused sick leave with pay credits in excess of the maximum allowable for the new class or position. Such employees shall have all such credits restored upon return to a class or position with an increased regular work schedule.

320.10.2 **Maximum Accumulation of Credits Pursuant to Administrative Code Chapter 12W effective February 5, 2007, and Labor Code Sections 245-249 effective July 1, 2015 Applicable to Employee Not Otherwise Qualified for Sick Leave**

Sick leave with pay credits shall be cumulative but the accumulated balance of unused sick leave with pay credits shall not exceed seventy-two (72) hours under Administrative Code Chapter 12W and forty-eight (48) hours under Labor Code Sections 245-249.

Sec. 320.11 **Sick Leave with Pay - Restrictions**

320.11.1 Sick leave with pay, beyond that authorized by law, is a privilege recognized by Charter and by Ordinance of the Board of Supervisors and should be requested and granted only in cases of absence because of illness which incapacitates the employee for the performance of duties or as otherwise defined in this Rule.

Sec. 320.11 Sick Leave with Pay – Restrictions (cont.)

- 320.11.2 An appointing officer or designee may require proof of incapacitation before granting sick leave with pay for any period of time and may withhold pay for failure to submit such proof provided that the employee had been previously notified in writing that such proof would be required for absences of less than five (5) working days.
- 320.11.3 The rate of earning and accumulating sick leave with pay credits and authorization for its use under this Rule shall in no way inhibit or restrict the right of an appointing officer to establish standards of attendance.

Sec. 320.12 Prohibition Against Employment While on Sick Leave with Pay

- 320.12.1 Employees are prohibited from working in any other employment while on sick leave with pay unless, after considering the medical reason for the sick leave with pay, the appointing officer with the approval of the Human Resources Director, grants permission for the employee to engage in a secondary employment subject to the provisions of these Rules governing such employment.
- 320.12 .2 Violators of this section are subject to disciplinary action as provided in the Charter.

Sec. 320.13 Calculation of Sick Leave with Pay Credits

- 320.13.1 Unless otherwise provided in this Rule or by ordinance, sick leave with pay credits shall be earned at the rate of thirteen (13) working days per completed year of paid service; provided that an employee's balance shall be credited on a pro rata basis based upon the completion of regularly scheduled paid service for the employee's class, excluding overtime, but including holidays and other paid absences.
- 320.13.2 Exempt employees shall accrue paid sick leave at a rate of one (1) hour per every thirty (30) hours worked, excluding holiday pay.

Sec. 320.14 Disbursement of Sick Leave with Pay Credits

Sick leave with pay credits shall be used and deducted at the minimum rate in units of one (1) hour for those employees whose credits are calculated in hours. The minimum deduction for members of the Uniformed Ranks of the Fire Department shall be determined by departmental Rule.

Sec. 320.15 **Employees Injured by Battery**

- 320.15.1 An employee absent because of bodily injury or illness received in the course of employment and caused by an act of criminal violence shall be entitled to sick leave with pay under the provisions of the Administrative Code.
- 320.15.2 Sick leave with pay under this section shall be known as "leave due to battery" and shall be subject to approval by the Human Resources Director. The Human Resources Director shall make such investigation as is deemed appropriate and may include medical examinations by a physician(s) designated by the Human Resources Director.
- 320.15.3 The decision of the Human Resources Director may be appealed to the Commission whose decision is final.
- 320.15.4 Authorized sick leave under this section shall not be charged against earned sick leave with pay credits.

Sec. 320.16 **Appeal of Denial of Sick Leave with Pay**

Denial of sick leave with pay to an appointee who is eligible and qualified for such leave is appealable as provided elsewhere in this Rule.

Sec. 320.17 **Reimbursement of Vested and Unused Accumulated Sick Leave with Pay Credits Balance**

- 320.17.1 An employee who had accumulated unused sick leave with pay credits and who had completed the service requirement on or before December 5, 1978, shall upon the effective date of retirement for service or disability, or upon the date of death, or upon the date of separation caused by industrial accident, be reimbursed for the accumulated unused sick leave with pay credit balance which had been earned on or before December 5, 1978, and not subsequently used ("vested and unused accumulated sick leave with pay credits") in accordance with the following schedule of service requirements and allowances.

Sec. 320.17 Reimbursement of Vested and Unused Accumulated Sick Leave with Pay Credits Balance (cont.)

320.17.1 (cont.)

Schedule of Service Requirements and Allowances for Reimbursement of Vested and Unused Accumulated Sick Leave with Pay Credit Balance at the Time of Retirement, Separation Because of Accident or Death	
Service Requirement	Amount of Cash Reimbursement
15 or more years of service	100%
More than 5 continuous years but less than 15 continuous years of service	50%
Up to and including 5 continuous years of service	33.3%

320.17.2 Reimbursement for the vested and unused accumulated sick leave with pay credit balance shall be further subject to the following:

- 1) The Human Resources Director shall administer the provisions of this section.
- 2) Deduction shall be made from the unused accumulated sick leave with pay credit balance which existed on December 5, 1978, in an amount proportional to any credits used of that balance. Reimbursement shall be made only for the adjusted amount with all credits from the December 5, 1978, balance subsequently used being deducted.
- 3) Reimbursement for the vested and unused accumulated sick leave with pay credit balance shall be payable at the time of retirement, separation caused by industrial accident or death, or at a later date when so selected by the employee, but within one year of such retirement, separation or death.
- 4) Reimbursement is to be computed at the base rate of pay of an employee's permanent class, at the base rate of pay of the class of a temporary or provisional employee with no permanent status, or at the base rate of pay in a temporary or provisional appointment of an employee with

Rule Change No.	Adoption Date	Effective Date	Rule Section	Page Number	Action	Remarks
2000-64	5/6/13	5/6/13	415.12.2, 415.13.2, 415.14.2 – 415.14.3	415.7 – 415.8	Amend	Replace pages 415.7 – 415.8 and page VI
2000-66	11/18/13	11/18/13	404.1	404.2 – 404.3	Amend	Replace pages 404.2 – 404.3 and page VI
2000-68	4/21/14	4/21/14	Sections 422.13 and 422.14	422.1, 422.16 – 422.17	Amend	Replace pages 422.1, 422.16 – 422.17 and page VI
2000-69	4/21/14	4/21/14	Entire Rule 411A	Entire Rule 411A	Amend	Replace entire Rule 411A and page VI
2000-70	5/5/14	5/5/14	Section 414.37.7	414.26	Amend	Replace pages 414.26 and page VI
2000-72	8/18/14	8/18/14	Sections 411A.25.3 and 411A.29	411A.12 & 411A.14	Amend	Replace pages 411A.11 – 411A.14
2000-73	8/18/14	8/18/14	Sections 412.11.2, 412.13 and 412.19	412.5, 412.6 & 412.9	Amend	Replace pages 412.4 – 412.9
2000-74	8/18/14	8/18/14	Sections 413.2 – 413.5; new 413.11 – 413.15	413.3 – 413.4; 413.11 – 413.13	Amend	Replace pages 413.2 – 413.13 and page VI. <i>Note: Some Section Numbers have changed due to deletions and/or additions</i>
2000-75	12/1/14	12/1/14	Sections 412.30 and 412.31	412.12	Amend	Replace pages 412.12 – 412.13 and page VI
2000-78	5/29/15	5/29/15	Sections 420.1.3, 420.1.6, 420.1.8, 420.2, 420.3.1, 420.6.1, 420.6.6, 420.6.8, 429.7.1, 420.7.2, 420.8.1, 420.8.3, 420.8.4, 420.9.2, 420.10.1, 420.12.2	420.2 - 420.10	Amend	Replace pages 420.2 – 420.11 and page VI

Rule 420 Leaves of Absence

Article I: Leaves of Absence - General Requirements

Applicability: Rule 420 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superseded in whole or in part by the collective bargaining agreement. However, all definitions in this Rule are applicable to employees in all classes.

Sec. 420.1 Leaves of Absence - General Requirements

- 420.1.1** Leaves of absence, hereinafter referred to in this Rule as "leave," shall be governed by the provisions of this Rule. For the purpose of this Rule, "appointing officer" shall mean all elected officials; all department heads designated by the Charter as appointing officers; and all Boards and Commissions when officiating as appointing officers.
- 420.1.2** Requests for leave shall be subject to the approval of the Director of Transportation/Designee. The decision of the MTA Director of Transportation/Designee is final unless provision for appeal is specifically granted in this Rule. Such requests for appeal shall be processed in accordance with the appeal procedure provided in this Rule. Requests for military, maternity, or witness or jury duty leave shall be granted as provided herein.
- 420.1.3** Except for vacation leave, witness or jury duty leave, compulsory sick leave, disability leave or unpaid administrative leave, an employee requesting a leave for more than five working days shall submit such request on the prescribed form to the MTA Director of Transportation/Designee. Requests for sick leave in excess of five (5) continuous working days shall be certified by a licensed medical doctor, doctor of dental surgery, doctor of podiatric medicine, licensed clinical psychologist, Christian Science Practitioner or licensed doctor of chiropractic. Verification of sick leave with pay for less than five (5) working days (seven (7) calendar days in the case of part-time employees) as provided elsewhere in this Rule shall be required on an individual basis only and shall be based upon an evaluation of the individual attendance record of an employee. For employees taking sick leave pursuant to Administrative Code Chapter 12W or Labor Code Sections 245-249, the City may take reasonable measures to verify or document that an employee's use of sick leave is taken in accordance with Administrative Code Chapter 12W or Labor Code Sections 245-249.

Sec. 420.1 **Leaves of Absence - General Requirements (cont.)**

- 420.1.4** The leave requests shall be retained in the department and maintained in a manner so as to be readily available for audit, review, or analysis, by authorized City personnel, including the Office of Labor Standards Enforcement Staff.
- 420.1.5** Except as otherwise provided in these Rules, leave granted for the period stated on the prescribed form may be extended or abridged only with the approval of the MTA Director of Transportation/Designee. An employee who does not return to work on the approved date shall be deemed as away without official leave and shall be subject to automatic resignation as provided elsewhere in these Rules.
- 420.1.6** Except when an employee requesting sick leave has accumulated unused sick leave with pay credits and except for employees eligible for military leave with pay, organ or bone marrow donor leave with pay, witness or jury duty leave, disability leave or leave due to battery as provided elsewhere in this Rule, or for authorized holiday or vacation, leaves shall be without pay.
- 420.1.7** Refer to the Probationary Period Rule on leave during the probationary period.
- 420.1.8** Exempt employees shall be granted paid sick leave on the ninetieth (90th) day of service. The decision of the MTA Director of Transportation/Designee shall be final and not subject to appeal.
- 420.1.9** An appointee shall not be required to sign a resignation form as a condition of approval of a leave.
- 420.1.10** Leaves granted under this Rule shall be indicated on timerolls as designated by the Controller.
- 420.1.11** An authorized leave granted under this Rule shall not be considered as a break in the continuous service of an employee.

Rule 420 Leaves of Absence

Article II: Sick Leave - General Provisions

Applicability: Rule 420 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superseded in whole or in part by the collective bargaining agreement. However, all definitions in this Rule are applicable to employees in all classes.

Sec. 420.2 Eligibility for Sick Leave

Subject to the provisions of this Rule, employees and officers (hereinafter called "employees") who are absent from their duties due to their own illness or disability, or that of a qualifying family member, including preventive care, such as medical or dental appointments, and employees who are victims of domestic violence, sexual assault or stalking, are eligible for sick leave.

Sec. 420.3 Verification of Sick Leave

420.3.1 The MTA Director of Transportation/Designee may make such independent investigation as to the necessity for sick leave as is deemed proper and may require certification for any period of sick leave, provided that the employee has been previously notified in writing that such certification for absence of less than five (5) working days shall be required. For employees taking sick leave pursuant to Administrative Code Chapter 12W or Labor Code Sections 245-249, the City may take reasonable measures to verify or document that an employee's use of sick leave is taken in accordance with Administrative Code Chapter 12W or Labor Code Sections 245-249.

420.3.2 The MTA Director of Transportation/Designee may at any time make such independent investigation as may be deemed proper regarding the illness of any person on sick leave.

Sec. 420.4 Retirement Automatically Terminates Sick Leave

Sick leave shall automatically terminate on the effective date of an employee's retirement.

Sec. 420.5 **Abridgment of Sick Leave**

Sick leaves granted in excess of five (5) working days may be abridged if the employee presents to the MTA Director of Transportation/Designee medical evidence of capability to resume all the duties of the position.

Sec. 420.6 **Definition of Sick Leave**

A leave granted under this Rule for one of the following reasons shall be known as "sick leave":

420.6.1 **Sick Leave - Medical Reasons**

Absence for diagnosis, care or treatment of a health condition, including alcoholism, or preventive care, and for employees who are victims of domestic violence, sexual assault or stalking, but excluding illness or injury arising out of and in the course of City and County employment. Absence due to illness or injury arising out of and in the course of employment is administered either under the Rules of the Retirement Board and is referred to as "disability leave" and may be supplemented as provided elsewhere in this Rule or under the provisions of this Rule and the Administrative Code for those employees injured by battery ("leave due to battery").

420.6.2 **Sick Leave – Quarantine**

Absence during a period of quarantine established and declared by the Department of Public Health or other authority.

420.6.3 **Sick Leave – Bereavement**

Absence because of the death of the employee's spouse or domestic partner, parents, step parents, grandparents, parents-in-law or parents of a domestic partner, sibling, child, step child, adopted child, a child for whom the employee has parenting responsibilities, aunt or uncle, legal guardian, or any person who is permanently residing in the household of the employee. Such leave shall not exceed three (3) working days and shall be taken within thirty (30) calendar days after the date of death; however, two (2) additional working days shall be granted in conjunction with the bereavement leave if travel outside the State of California is required as a result of the death.

Sec. 420.6 Definition of Sick Leave (cont.)**420.6.3 Sick Leave – Bereavement (cont.)**

For absence because of the death of any other person to whom the employee may be reasonably deemed to owe respect; leave shall be for not more than one (1) working day; however, two (2) additional working days shall be granted if travel outside the State of California is required as a result of the person's death.

420.6.4 Sick Leave - Maternity

Absence due to the employee's pregnancy or convalescent period following childbirth. Such leave shall not exceed six (6) months provided that such leave may be extended for permanent employees if a physician certifies that a longer convalescence period is required. Such extensions shall be subject to the provisions of this Rule governing sick leave without pay.

420.6.5 Sick Leave – Parental Leave

Absence due to the birth of a child to the employee, the employee's spouse, or the employee's domestic partner or assumption by the employee of parenting or child rearing responsibilities either by adoption or foster care.

420.6.6 Sick Leave - Illness or Medical Appointment of a Family Member

Absence for diagnosis, care or treatment of a health condition or injury, or for preventive care for an employee's family member, defined as follows:

- 1) A child, which for the purposes of this section means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.
- 2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.
- 3) A spouse.
- 4) A registered domestic partner.
- 5) A grandparent.
- 6) A grandchild.
- 7) A sibling.

Sec. 420.6 **Definition of Sick Leave (cont.)****420.6.7** **Sick Leave Pursuant to Administrative Code Chapter 12W**

1) Absence due to the illness, injury, medical care, treatment, diagnosis or medical appointment of the employee; employee's child; parent; legal guardian or ward; sibling; grandparent; grandchild; and spouse, registered domestic partner under any state law, or "designated person."

The aforementioned child, parent, sibling, grandparent, and grandchild relationships include not only biological relationships but also relationships resulting from adoption; step-relationships; and foster care relationships. "Child" includes a child of a domestic partner and a child of a person standing in loco parentis.

2) For the purpose of this section, the definition of "designated person" is: one person designated by an employee who has no spouse or registered domestic partner, as the person for whom the employee may use paid sick leave to aid or care for under this section. The opportunity to make such a designation shall be extended to the employee no later than the date on which the employee has worked thirty (30) hours after paid sick leave begins to accrue. There shall be a window of ten (10) business days for the employee to make this designation. Thereafter, the opportunity to make such a designation, including the opportunity to change such a designation previously made, shall be extended to the employee on an annual basis, with a window of ten (10) business days for the employee to make the designation.

420.6.8 **Sick Leave Pursuant to Labor Code Sections 245-249**

Absence for the following purposes: (1) diagnosis, care, or treatment of an existing health condition of, or preventive care for an employee or an employee's family member; or (2) for an employee who is a victim of domestic violence, sexual assault, or stalking, described in Labor Code Section 230, subdivision (c) and Labor Code Section 230.1, subdivision (a).

420.6.9 **Sick Leave – Compulsory**

Leave imposed by the MTA Director of Transportation/Designee due to an employee's medical inability or incapacity to perform all the duties of the position as provided elsewhere in this Rule.

Rule 420 Leaves of Absence

Article III: Sick Leave with Pay

Applicability: Rule 420 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superseded in whole or in part by the collective bargaining agreement. However, all definitions in this Rule are applicable to employees in all classes.

Sec. 420.7 Sick Leave with Pay Eligibility

420.7.1 Sick leave with pay may be granted to employees who have accrued paid sick leave on the ninetieth (90th) day of service except that supplemental disability credits may be used to supplement disability indemnity payments as provided elsewhere in this Rule regardless of length of service and except that an authorized leave of absence with or without pay granted under this Rule shall not be considered as a break in the continuous service of an employee.

420.7.2 A break in service of more than twelve (12) continuous months by any employee other than an employee designated as a "holdover" will cause prior accumulated sick leave with pay credits to be canceled and eligibility for sick leave with pay must be re-established.

420.7.3 Sick leave with pay credits will continue to accrue at the normal rate while an employee is on either furlough or voluntary unpaid time off in accordance with this Rule, for a maximum of up to ten (10) days per fiscal year for imposed furlough or twenty (20) days per fiscal year for voluntary unpaid time off.

Sec. 420.8 Sick Leave with Pay Eligibility Pursuant to Administrative Code Chapter 12W Effective February 5, 2007, and Labor Code Sections 245-249 Applicable to Employees Not Otherwise Qualified for Sick Leave Effective July 1, 2015

420.8.1 Sick leave with pay may be granted to said employees, on the ninetieth (90) day of service.

420.8.2 Employees hired on or before February 5, 2007, shall immediately be eligible to accrue and use sick leave with pay credits under this section.

420.8.3 A complete separation in service for twelve (12) continuous months by an employee, other than an employee designated as a "holdover" will cause prior accumulated sick leave with pay credits to be canceled and eligibility for sick leave with pay must be re-established.

Sec. 420.8 **Sick Leave with Pay Eligibility Pursuant to Administrative Code Chapter 12W Effective February 5, 2007, and Labor Code Sections 245-249 Applicable to Employees Not Otherwise Qualified for Sick Leave Effective July 1, 2015 (cont.)**

420.8.4 Employees rehired within one (1) year following a separation will not be subject to the ninety (90) calendar day eligibility period. And any of previously accrued and unused sick leave hours will be reinstated.

Sec. 420.9 **Sick Leave with Pay - Maximum Accumulation of Credits**

420.9.1 **Sick Leave with Pay – Maximum Accumulation of Credits**

Sick leave with pay credits shall be cumulative but the accumulated balance of unused sick leave with pay credits shall not exceed the equivalent of six (6) months which is the hourly equivalent of 130 working days based on the regular daily work schedule as defined, provided that in no case may the total accumulated unused sick leave with pay credit balance exceed 1040 hours. Maximum accumulated sick leave with pay credits shall be reduced proportionately for employees entering a class or position where the regular work schedule is less than the class exiting if such employees have accumulated unused sick leave with pay credits in excess of the maximum allowable for the new class or position. Such employees shall have all such credits restored upon return to a class or position with an increased regular work schedule.

420.9.2 **Maximum Accumulation of Credits Pursuant to Administrative Code Chapter 12W Effective February 5, 2007, and Labor Code Sections 245-249 Effective July 1, 2015 Applicable to Employee Not Otherwise Qualified for Sick Leave.**

Sick leave with pay credits shall be cumulative but the accumulated balance of unused sick leave with pay credits shall not exceed seventy-two (72) hours under Administrative Code Chapter 12W and forty-eight (48) hours under Labor Code Section 245-249.

Sec. 420.10 **Sick Leave with Pay - Restrictions**

420.10.1 Sick leave with pay, beyond that authorized by law, is a privilege recognized by Charter and by Ordinance of the Board of Supervisors and should be requested and granted only in cases of absence because of illness which incapacitates the employee for the performance of duties or as otherwise defined in this Rule.

Sec. 420.10 Sick Leave with Pay – Restrictions (cont.)

- 420.10.2 The MTA Director of Transportation/Designee may require proof of incapacitation before granting sick leave with pay for any period of time and may withhold pay for failure to submit such proof provided that the employee had been previously notified in writing that such proof would be required for absences of less than five (5) working days.
- 420.10.3 The rate of earning and accumulating sick leave with pay credits and authorization for its use under this Rule shall in no way inhibit or restrict the right of the MTA Director of Transportation/Designee to establish standards of attendance.

Sec. 420.11 Prohibition Against Employment While on Sick Leave with Pay

- 420.11.1 Employees are prohibited from working in any other employment while on sick leave with pay unless, after considering the medical reason for the sick leave with pay, the MTA Director of Transportation/Designee, grants permission for the employee to engage in a secondary employment subject to the provisions of these Rules governing such employment.
- 420.11.2 Violators of this section are subject to disciplinary action as provided in the Charter.

Sec. 420.12 Calculation of Sick Leave with Pay Credits

- 420.12.1 Unless otherwise provided in this Rule or by ordinance, sick leave with pay credits shall be earned at the rate of .05 hours for each hour of regularly scheduled paid service excluding, overtime exceeding forty (40) hours per week and holiday pay, except that an employee on disability leave shall earn sick leave with pay credits at the normal rate.
- 420.12.2 Exempt employees shall accrue paid sick leave at a rate of one (1) hour per every thirty (30) hours worked, excluding holiday pay.

Sec. 420.13 Disbursement of Sick Leave with Pay Credits

Sick leave with pay credits shall be used and deducted at the minimum rate in units of one (1) hour for those employees whose credits are calculated in hours.

Sec. 420.14 Conversion of Sick Leave with Pay Credits from Days to Hours

Sick leave with pay credit balances shall be converted from days to hours based on the equivalent number of hours in such employee's sick leave with pay credit balances. The equivalent number of hours shall be based on the employee's authorized normal daily work schedule in effect

Sec. 420.14 **Conversion of Sick Leave with Pay Credits from Days to Hours (cont.)**

on the effective date of this amended Rule, except if the MTA Director of Transportation/Designee determines that such conversion is inequitable and allows another formula to be used.

Sec. 420.15 **Employees Injured by Battery**

- 420.15.1 An employee absent because of bodily injury or illness received in the course of employment and caused by an act of criminal violence shall be entitled to sick leave with pay under the provisions of the Administrative Code.
- 420.15.2 Sick leave with pay under this section shall be known as "leave due to battery" and shall be subject to approval by the MTA Director of Transportation/Designee. The MTA Director of Transportation/Designee shall make such investigation as is deemed appropriate and may include medical examinations by a physician(s) designated by the MTA Director of Transportation/Designee.
- 420.15.3 The decision of the MTA Director of Transportation/Designee may be appealed to the Civil Service Commission whose decision is final.
- 420.15.4 Authorized sick leave under this section shall not be charged against earned sick leave with pay credits.

Sec. 420.16 **Appeal of Denial of Sick Leave with Pay**

Denial of sick leave with pay to an appointee who is eligible and qualified for such leave is appealable as provided elsewhere in this Rule.

Sec. 420.17 **Reimbursement of Vested and Unused Accumulated Sick Leave with Pay Credits Balance**

- 420.17.1 An employee who had accumulated unused sick leave with pay credits and who had completed the service requirement on or before December 5, 1978, shall upon the effective date of retirement for service or disability, or upon the date of death, or upon the date of separation caused by industrial accident, be reimbursed for the accumulated unused sick leave with pay credit balance which had been earned on or before December 5, 1978, and not subsequently used ("vested and unused accumulated sick leave with pay credits") in accordance with the following schedule of service requirements and allowances.

ATTACHEMENT 3

1 [Civil Service Commission Rule Change - Sick Leave Rules]

2

3 **Motion approving amendments to the Rules of the Civil Service Commission,**
4 **retroactive to July 1, 2015, to incorporate changes to the Rules governing paid sick**
5 **leave to conform to the requirements of the Healthy Workplaces, Healthy Families Act**
6 **of 2014.**

7

8 WHEREAS, the State of California enacted the Healthy Workplaces, Healthy Families
9 Act of 2014 (“Act”), which establishes minimum statewide standards governing paid sick
10 leave, and which becomes operative on July 1, 2015; and

11 WHEREAS, at its meeting of May 18, 2015, the Civil Service Commission approved
12 amendments to its Rules governing paid sick leave to conform to the requirements of the Act,
13 and posted said amendments for immediate adoption following meet and discuss with
14 affected labor unions and stakeholders, resulting in the Commission’s adoption of said
15 amendments on May 29, 2015, for forwarding to the Board of Supervisors; and

16 WHEREAS, said amendments to the Commission Rules are on file with the Clerk of
17 the Board of Supervisors in File No. _____, and are hereby declared to be a part of this
18 motion as if fully set forth herein; and,

19 WHEREAS, Section 10.101 of the City Charter requires that the Board of Supervisors
20 approve Commission Rules for leave due to illness or disability; now, therefore, be it

21 **MOVED,** That the Board of Supervisors approves the proposed Civil Service
22 Commission Rules on file, and that said approval is retroactive to July 1, 2015.

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