

**MOUNTAIN BROOK FIRE DEPARTMENT**

**POLICY NO.** 103.04

**VOLUME:** I

**SUBJECT:** Alternate Duty Work: On-the-Job Injuries and Sick Leave

**SIGNED:** \_\_\_\_\_  
**ROBERT W. EZEKIEL, FIRE CHIEF**

3/12/2007  
**DATE**

**SCOPE:** The intent of this policy is to establish a suitable alternate duty work program for department employees who, as a result of a job related injury covered under the Alabama Worker's Compensation Act are temporarily disabled from performing all the essential functions of their regular job classification. The additional intent of this policy is to establish the opportunity for employees that suffer injuries and illnesses off the job (SWPE) to work alternate duty in an effort to serve the department in a limited capacity and conserve individual sick leave.

**POLICY:**

**Duration (Worker's Compensation Injury):** The department may place employees on alternate duty who, as a result of a worker's compensation injury, are on Injury-with-pay (IWP) and are receiving Temporary Total Disability (TTD/IWP) benefits or are eligible to receive benefits (TTD/IWP) accordingly, until such time as the employee is released to work full duty or the employee reaches Maximum Medical Improvement (MMI). Employees reaching MMI as determined by the treating physician shall no longer be eligible for alternate duty and must either return to work full duty if released with a 0% impairment rating from the treating physician or complete the department's Functional Capacity Evaluation (FCE) if an impairment rating above 0% is given/suspected by the treating physician. Generally, alternate duty for on-the-job injuries should not exceed one hundred eighty (180) calendar days. The department safety officer will monitor the progress of employees on alternate duty and will regularly communicate with the City's worker's compensation administrator regarding said progress.

If an employee is not able to transition to full duty at the end of the 180 days available for alternate duty, then he/she will be placed back on IWP with benefits accordingly (TTD -66 2/3% pay & IWP 33 1/3% pay within the 180 days allowed under JCPB) and will continue rehabilitation efforts until returning to full duty and/or reaching MMI.

**Duration (SWPE Medically Related Event):** In order to take advantage of alternate duty, an employee on sick leave with pay must be off 14 days before requesting alternate duty. Requests for alternate duty (SWPE) should be addressed in memo format to the Training/Safety Officer. The Training/Safety Officer will review the request and give a formal reply in memo format. Alternate duty for employees with SWPE medically related events shall not exceed ninety (90) calendar days in duration.

**Alternate Duty not a Permanent Job Classification:** Alternate duty does not guarantee permanent continuing employment in the event the employee cannot return to work full duty and perform all the essential functions of his/her job classification with or without reasonable accommodations. A maximum of three (3) personnel can be on alternate work duty assignment at one time. In the event that an alternate duty assignment compatible to the employee's abilities and temporary disability cannot be found, the employee may be denied alternate duty and will remain on, or be placed on benefits (TTD/IWP) accordingly. It should additionally be noted that alternate duty is not a reasonable accommodation pursuant to the American with Disabilities Act.

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**Pay and Benefits:** Employees on alternate duty will receive their regular rate of pay and benefits and are not eligible for TTD/IWP benefits. Employee work schedules shall be arranged to permit injured-on-the-job employees to attend physician appointments and any prescribed physical therapy and work hardening sessions.

**Employee Responsibilities:** Employees shall keep the alternate duty supervisor and department safety officer (if different) apprised of any changes in medical condition which affect his/her work abilities. The employee shall work within any medical restrictions which have been given by the treating physician.

**Supervisor Responsibilities:** It shall be the duty of a supervisor of any employee on alternate duty to insure that the employee complies with all medical restrictions while working an alternate duty assignment. If a supervisor is unclear of the restrictions placed upon the employee, then the supervisor should contact the department safety officer for clarifications.

**Work Schedules:** It is very likely that employees working alternate duty will work a forty-hour (40) work week; therefore, the time card time entry responsibilities for the employee will be transferred from the respective station to the Safety Officer's office.

**Note:** The elements contained within this department policy shall not supersede any Federal or State law or statute, the Americans with Disabilities Act, any State of Alabama Worker's Compensation Law, Personnel Board of Jefferson County policy/rule nor City of Mountain Brook Employee Handbook policy.

### Definitions and Legal Citations:

Alternate Duty: Temporary work within medical restrictions for employees with worker's compensation injuries or SWPE medically related events. Such duties shall be consistent with employee's physical and mental abilities and may be performed as soon as is medically feasible.

Alternate Duty Supervisor: The supervisor under whose supervision an employee with an alternate duty assignment is assigned to work. Normally this will be the department Safety Officer.

Disability: The term "disability" means, with respect to an individual -

- a) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- b) a record of such an impairment; or
- c) being regarded as having such an impairment.

Full Duty: When an employee is performing or is able to perform all of the essential functions of his/her job classification with or without reasonable accommodations.

Maximum Medical Improvement (MMI): The date of maximum medical improvement indicates the date on which the employee has reached such a plateau that there is no further medical care or treatment that could be reasonably anticipated to lessen the employee's disability.

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SWPE Medically Related Event: An employee with an off-the-job illness or injury (SWPE) that prevents the employee from performing the essential functions of his/her job for more than 14 days.

Temporary Total Disability (TTD): The recovery period following a worker's compensation injury that lasts until the employee returns to full duty and/or MMI is reached.

Temporary Total Disability Benefits: For an injury producing temporary total disability, the compensation shall be 66 2/3% of the average weekly earnings received at the time of injury, subject to a maximum and minimum weekly compensation as stated in Section 25-5-68 but if at the time of injury the employee received average weekly earnings of less than the minimum stated in Section 25-5-68, then he or she shall receive the full amount of the average weekly earnings per week. This compensation shall be paid during the time of the disability, but at the time as a temporary total disability shall become permanent, compensation for the continued total disability shall be governed by (a)(4) of Section 25-5-57, Code of Alabama, 1975, with respect to permanent total disability. Payments are to be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree.

Worker's Compensation Injury: "Injury and personal injury" shall mean only injury by accident arising out of and in the course of the employment, and shall not include a disease in any form, except for an occupational disease or where it results naturally and unavoidably from the accident. Injury does not include any injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him or her and not directed against him or her as an employee or because of his or her employment. Injury does not include a mental disorder or mental injury that has neither been produced nor been proximately caused by some physical injury to the body.

Injury-with-Pay (IWP): The formal leave category for employees suffering a Worker's Compensation Injury under the Jefferson County Personnel Board system. Additionally, employee's on IWP receive 33 1/3% of regular pay within the 180 days allowed to supplement the 66 2/3% TTD benefits.