

**PERSONNEL RULE 15 AMENDMENTS**  
**June 28, 2017 City Council Formal Meeting**

PURPOSE – The proposed amendments, which are designed to conform the Personnel Rules with State law changes on Earned Paid Sick Time and other elements of Proposition 206, accomplish the following (revisions and new text appear in all caps - deletions are noted in strikethrough and shaded gray):

**PERSONNEL RULE 15**  
**LEAVES OF ABSENCE**

NOTHING IN THIS RULE SHALL BE INTERPRETED OR APPLIED IN A MANNER THAT CONFLICTS WITH FEDERAL, STATE, OR LOCAL LEAVE LAWS OR REGULATIONS. IF ANY PART OR PROVISION OF THIS RULE IS IN CONFLICT OR INCONSISTENT WITH SUCH APPLICABLE PROVISIONS OF FEDERAL, STATE OR LOCAL LEAVE LAWS OR REGULATIONS, OR IS OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE BY ANY COURT OF COMPETENT JURISDICTION, SUCH PART OR PROVISIONS SHALL BE SUSPENDED AND SUPERSEDED BY SUCH APPLICABLE LAW OR REGULATIONS, AND THE REMAINDER OF THE RULE SHALL REMAIN IN EFFECT.

**15a. Requesting Leaves of Absence**

15a1. All requests for leaves of absence with or without pay shall be made to the department head concerned for approval on forms approved by the Personnel Director. All requests shall be submitted in advance of the beginning date of the leave (except requests for unanticipated sick leave which shall be submitted for approval at the earliest possible time) and the duration and kind of leaves shall be recorded on the payroll. Paid leaves of absence are subject to available leave credits and the scheduling of vacations is subject to the control of the department head. All requests for leave of absence (excluding industrial leaves) without pay of over thirty working days shall be subject to the control of the department heads concerned and shall require the approval of the appointing authority and the Personnel Director.

The Personnel Director shall administer the leave program.

15a2. Job Sharing Program: An employee in a job sharing position shall receive a pro-rata share of full-time leave credits in a manner determined by the Personnel Director.

15a3. All leaves of absence for personal illness of the employee; for the birth, adoption, or foster placement of a child; or for the care of a spouse, child, or parent of the employee when those family members have a serious health condition shall be integrated with the leave requirements of the Family and Medical Leave Act of 1993.

15A4. ALL LEAVES OF ABSENCE QUALIFYING FOR THE USE OF EARNED PAID SICK TIME UNDER ARIZONA LAW SHALL BE INTEGRATED WITH THE LEAVE REQUIREMENTS OF ARIZONA REVISED STATUTES (A.R.S.) TITLE 23, ARTICLE 8.1.

15a45. Salaried (exempt) employees shall not receive deductions from their compensation for absences from work of less than one full work day, except as permitted under the Fair Labor Standards Act and the Family Medical Leave Act. If a salaried employee is absent for less than one-half of a work day, leave balances will not be reduced except as permitted under the Fair Labor Standards Act and the Family Medical Leave Act. If the employee is absent for one-half of a work day or more, a full day of leave will be deducted.

15b. **Vacation Leave With Pay**

15b1. Eligibility and Vacation Allowances: Every full-time hourly employee who works a schedule at full-time fifty-two weeks of the year shall be credited with vacation credits for every completed calendar month of paid service according to the following schedule:

8 hours per month	Through 5 years of service
10 hours per month	beginning 6th through 10th year of service
11 hours per month	beginning 11th through 15th year of service
13 hours per month	beginning 16th through 20th year of service
15 hours per month	beginning 21st year of service & thereafter

Salaried employees shall receive the following annual vacation accruals, prorated monthly based on an eight-hour day:

12 days	Through 5 years of service
15 days	6th through 10th year of service
16.5 days	11th through 15th year of service
19.5 days	16th through 20th year of service
22.5 days	21st year of service and thereafter

An employee in the General Employee Retirement System who is receiving pension benefits as a result of retirement from the City under the Public Safety Retirement System shall be considered as a new employee in determining vacation credits.

Any absence without pay in excess of ten working days in any two consecutive pay periods shall not be allowed as creditable service for vacation benefits.

Leaves of absence compensated under the City of Phoenix Industrial Leave Program in excess of one year (2,080 hours, or 2,912 hours for 56-hour Fire employees) per injury or illness shall not be considered as paid service. While return to working status shall reinstate leave accrual,

additional industrial leave for the same injury or illness shall not be considered paid service. Full-time regular employees who have been absent from work in an inactive status for more than two years shall have their rate of vacation accrual adjusted to reflect the duration of the absence.

Eligibility to use vacation credits shall begin only after completion of six months of employment, with the following exceptions:

- A. A full-time certified employee, appointed from recall list, is eligible to use vacation credits as earned upon reemployment.
- B. Vacation credits, earned during the first six months of employment, may be used for sick leave, only if sick leave credits are not available.
- C. A full-time benefit-eligible employee who is reemployed with the City within two years of resignation or other break in service.

- 15b2. Accrual of Vacation Credits: Vacation credits shall not be allowed to accumulate in excess of an amount equal to two times the employee's current annual rate at the end of any calendar year, except on the recommendation of the employee's department head and approval of the appointing authority. Approved excess vacation carryover shall be subject to the provisions and limitations imposed by the City Manager. The City Manager may establish limits beyond which the employee shall not accumulate further leave credits and for which the employee shall not be compensated.

The written authority to carry over vacation credits in excess of an amount equal to two times the employee's current annual accrual rate shall be placed on file in the Personnel Department. Any unauthorized carryover of vacation credit in excess of an amount equal to two times the employee's current annual accrual rate becomes void at the end of the calendar year into which such excess credits are extended. Fire Department employees on a 56-hour schedule shall be allowed a carryover proportional to the amount allowed general service employees.

Employees with less than six years of service hired before July 1, 1981, will be allowed to accumulate vacation credits up to a maximum of 240 hours at the annual cutoff date.

- 15b3. Vacation Rate of Pay and Assessment: The department head is responsible for the scheduling of vacations for employees regularly each year. Vacation is charged against the employee's credits in the amount equal to the number of regularly-scheduled working hours that the employee is on vacation leave. The full-time employee shall receive the same amount in vacation pay that he would receive if the employee worked his normal daily work schedule. Vacation leave in an amount of

less than a day for a full-time hourly employee shall be charged to the nearest fifteen minutes involved in the leave.

Vacation leave for salaried employees shall be charged as stipulated in Rule 15a45.

For good reason, an employee may be allowed or required by the department head to forego part or all of his annual vacation. No employee shall be required to forego the use of vacation credits without the department head approving the carryover of credits in excess of an amount equal to two times the employee's current annual accrual rate.

- 15b4. Termination Pay of Vacation Credits: Every employee who has vacation credits that do not exceed the limitations established by the City Manager shall have such credits paid at the time of leaving the City's employment, whether by resignation, retirement, layoff, dismissal, or death. No such payment shall be made unless the employee has completed six months of employment and no payment shall be made for hours in excess of limitations established by the City Manager.

15c. **Sick Leave With Pay**

- 15c1. Entitlement and Allowance: Every full-time hourly employee who works a schedule at full-time, fifty-two weeks of the year, shall accrue sick leave credits at the rate of ten hours for each month of paid service. Salaried employees shall accrue sick leave credits at the rate of a day and one-quarter for each month of paid service. A PORTION OF THESE ACCRUALS, NOT TO EXCEED FORTY HOURS PER YEAR, WILL BE DESIGNATED FOR USE AS EARNED PAID SICK TIME IN ACCORDANCE WITH STATE LAW (A.R.S. TITLE 23, ARTICLE 8.1). SEE RULE 15D. Leaves of absence compensated under the City of Phoenix Industrial Leave Program in excess of one year (2,080 hours, or 2,912 hours for 56-hour Fire employees) per injury shall not be considered as paid service. Sick leave credits shall accrue without limitation. Any absence without pay of more than ten working days in any two consecutive pay periods shall not be allowed as creditable sick leave time. Upon reemployment within five years, 20% of sick leave credits at the time of termination shall be reinstated to the employee and be available for use after one month of reemployment. However, employees rehired from a layoff eligibility list shall have full sick leave credits and use of sick leave accumulated during previous employment. An employee who is receiving pension benefits as a result of retirement from the City under the Public Safety Retirement System and who received cash payment for accumulated sick leave at time of retirement shall not be entitled to the 20% return of sick leave credits.

15c2. Qualifications for Sick Leave

Sick leave shall only be allowed when:

- A. The employee is too ill or injured to be able to work safely. Minor ailments which would not affect the safety of persons or property or endanger the health of other persons while performing job duties do not qualify an employee for sick leave. Department and division heads shall not approve applications for sick leave with pay in cases involving such minor ailments.

Employees may be allowed sick leave for examinations by a licensed physician or dentist, or medical treatments prescribed by a licensed physician or dentist, when it is not possible to arrange appointments on off-duty hours. Sick leave shall be denied an employee who refuses to follow the prescription of a licensed physician.

Employees may be allowed sick leave to provide the supplemental pay differential between industrial pay and regular net take-home pay under the provisions of Rule 15f1, after the one-year supplemental pay has been exhausted.

- B. An emergency occurs due to illness of a member in the employee's immediate family.

Duration of emergency leave shall be limited to the emergency situation and shall not exceed five working days. The amount of leave may vary from one hour to five days, depending on the emergency. Air travel time shall be allowed in addition to the approved amount of out-of-state family emergency illness.

"Member of the employee's immediate family" means the mother, father, husband, wife, child, step-child, brother, or sister of the employee. A relative who, because of family circumstances, has been a parent substitute to the employee may be considered as a substitute for mother or father in this definition. Under the Family and Medical Leave Act of 1993, brother and sister are not qualified as immediate family members.

- C. A police officer who has no other accumulated paid leave may use up to ten hours of accumulated sick leave per year for non-emergency home care or medical treatment of a member of the employee's immediate family, subject to operational and scheduling factors.

Sick leave shall not be allowed:

- D. For an absence as a result of a job injury or occupational disease while employed by someone other than the City of Phoenix.
- E. For home care of a family member due to illness not an emergency, except as provided in ~~8~~ above.

15c3. Rate of Sick Leave Pay and Assessment: A full-time hourly employee while on sick leave shall be charged sick leave credits in the amount equal to the number of working hours he is absent. The rate of pay while on sick leave shall be the rate at which he is being paid when taking leave. Sick leave for salaried employees shall be charged as stipulated in Rule 15a45. In no event shall more than the regularly-scheduled daily work hours be allowed the full-time employee for each of the scheduled work days on which he is absent. Sick leave of less than a full day shall be charged to the full-time employee's sick leave credits to the nearest fifteen minutes involved in the leave. If sick leave occurs on an authorized holiday, and the employee was scheduled to work on that holiday, sick leave shall not be charged and the employee shall receive the appropriate holiday compensation as provided in City Administrative Regulations.

15c4. Leave Authorization: Request for sick leave shall be in writing, signed by the employee, stating the reasons for the leave and have the approval of the supervisor who is authorized by the department head to approve sick leave. The department head may require a certificate of disability from the employee's physician (licensed) for an absence of over three days. Such certification may be required for absences of less than three days when the employee's sick leave record indicates excessive one- or two-day absences.

An employee, before returning to his duties from an illness of over twelve working days, shall submit a statement from his physician qualifying him for his class of work. The department head may refer the employee to the City physician for examination at the time the employee reports for duty from an absence of over twelve working days.

An employee who is on extended sick leave shall submit to a medical examination or examinations made by the City physician, or a licensed physician designated by the City physician. Provided that if in the opinion of the City physician the nature and extent of the illness is such that no examination is necessary to determine that the employee is not able to work, such examination may be waived until such time as the City physician shall determine that an examination is again necessary. A report of his decision shall be forwarded to the department head and the Personnel Director indicating the approximate date when, in his opinion, an examination should be necessary. Such examination shall be made within five days following a period of thirty calendar days of sick leave with pay, and such additional periodic medical examinations shall be made at thirty calendar day intervals during the period the employee continues on sick leave.

The City physician shall report in writing to the employee's department head and the Personnel Director on the findings of each medical examination. The medical findings of the employee's physician shall also be considered and reported to the department head by the City physician.

The department head involved, on receipt of the medical findings, shall either continue the employee on leave or order him to return to his duties. It shall be the responsibility of the department or division head of the employee who is on extended sick leave with pay to inform the City physician of the name and exact location of such employee and of the dates on which medical examinations shall be made.

The Personnel Director may require that a medical examination be made of such employee if he has not received a copy of the medical report on the employee after ten days from the date when such medical examination is required to be made.

- 15c5. Appeal From the Medical Decision of the City Physician: When the medical opinion of the City physician results in the department head denying the petition of an employee to be absent or to return to work because of an illness or injury, the employee's licensed physician who concurs with the employee's request and the City physician shall select a third licensed physician to examine the employee. The majority opinion of these three physicians shall determine whether the employee shall be given sick leave or returned to his job. The cost of the services of the third physician shall be assumed equally by the employee and the City
- 15c6. Medical Examinations: Whenever, in the opinion of the department head, the work record or the attendance record, or both, of an employee indicates that he may have a health problem, the department head may direct that he be examined by the City physician.

Supervisors below the department head level shall immediately inform the department head of any undue lowering of the quality of work of any employee or any undue absences which may be a result of the employee's physical condition.

The results of each examination shall be used in counseling the employee to the end that he will get the best out of his health resources. The medical findings of each examination shall be transmitted to the employee and his physician when, in the opinion of the City physician, corrective steps should be taken. The medical findings of the City physician shall be made available to the employee's family physician upon request of the employee or his physician.

When the medical findings disclose a disability that limits the employee's ability to perform the essential functions of the job, the department shall investigate the reasonable accommodations that may be made to assist the employee. When, in the opinion of the City physician, a leave of absence is necessary for corrective treatment, the employee shall be entitled to such sick leave credits as stand to his account. In the event an employee is found to need a leave of absence to recover from his physical illness and would be required to take sick leave with or without pay, he shall have the right to appeal to a board composed of the City

physician, the employee's physician, and a consulting physician selected by the two. The majority opinion of the three in writing shall be binding upon the employee to take or not to take a leave of absence with or without pay. The cost of the consulting physician shall be in accordance with the provisions of the preceding section as to this cost responsibility.

15c7. Maternity: A leave of absence, as covered under 15c1, shall be granted for maternity purposes to female employees on the following basis:

- A. An employee who applies for maternity leave must submit her request in writing indicating whether or not she intends to return to duty after delivery. She should attach thereto her physician's written certificate stating the approximate date on which she will be incapacitated for the full performance of her duties because of pregnancy, and stating the expected delivery date.
- B. An employee will be expected to work before delivery until she cannot adequately perform the duties of her job, or it is no longer safe for her to do so as certified by her attending physician. An employee who intends to return to duty after delivery will be expected to do so as soon as she is physically fit as certified by her physician.
- C. The use of paid sick leave for maternity shall be only for the period of time when the employee herself is physically disabled, and only to the extent that the employee has sick leave accumulated. Paid sick leave solely for the purpose of providing child care shall not be allowed. The maternity time and the time used for care of the new child shall comply with the Family and Medical Leave Act of 1993.
- D. The employee shall be responsible for providing any physician's statements as required by the department to determine the commencement and termination period of physical disability.
- E. An employee who has indicated that she does not intend to return to duty after delivery will be granted the use of any sick leave to her credit during the periods before and immediately after the actual delivery which can be supported by her physician's certificate. She will submit her resignation at the time she begins her maternity leave. When she has used the sick leave approved, she will be separated from the rolls.

#### 15D. EARNED PAID SICK TIME

15D1. ENTITLEMENT: EMPLOYEES SHALL ACCRUE A MINIMUM OF ONE HOUR OF EARNED PAID SICK TIME FOR EVERY 30 HOURS WORKED, BUT EMPLOYEES SHALL NOT BE ENTITLED TO ACCRUE



OR USE MORE THAN 40 HOURS OF EARNED PAID SICK TIME PER YEAR.

15D2. LEAVE QUALIFYING FOR USE AS EARNED PAID SICK TIME SHALL BE AS SPECIFIED IN STATE LAW (A.R.S., TITLE 23, ARTICLE 8.1) AND ISSUED BY ADMINISTRATIVE REGULATION.

15dE. Military Leave

15dE1. National Guard: Leave for National Guard shall be as specified in State law (ARS 26-168) and issued by Administrative Regulation.

15dE2. Military Reserve: Leave for Armed Services Reserve shall be as specified in State law (ARS 38-610) and issued by Administrative Regulation.

15dE3. United States Armed Services in Wartime: All employees shall be entitled to an indefinite leave of absence without pay while serving on active duty in the military branch of the United States Government during time of war. This leave allowance also shall cover absences resulting from compulsory military training orders in peacetime. The position from which an employee is on military leave, if filled, shall be subject to the return of the employee from military leave.

The employee returning from military leave shall be reinstated to his position upon his request and presentation of his military termination papers to the Personnel Director if he is physically fit to perform the duties of his former position. If his former position is no longer in existence, he shall be entitled to such employment or reinstatement rights as his seniority and performance rating entitle him. He shall be allowed ninety days to report to his department head for duty after the date of his discharge or proper release from the Armed Services.

Employees on military leave of absence will be awarded a merit increase upon their return in accordance with USERRA.

15eF. Special Leave Without Pay

An employee holding a position in the City service may, upon written request, be granted special leave of absence without pay for any of the following reasons:

15eF1. To enable an employee to engage in a course of study such as will increase his usefulness to the City service;

15eF2. To enable an employee to take a position in the unclassified service of the City;

- 15eF3. To enable an employee who is physically or mentally incapacitated to recover his health;
- 15eF4. To enable female employees to attend to maternity medical needs, after paid leave has been exhausted;
- 15eF5. To enable an employee to take up to twelve weeks upon the birth or adoption of a child or to care for a seriously ill member of the immediate family, as required by the Family and Medical Leave act;
- 15eF6. Other equally good reasons considered valid by the City Manager.

All requests for leave of absence without pay not in excess of thirty working days shall require only the approval of the department head concerned. All other requests for leave of absence (excluding industrial leaves) without pay over thirty working days shall be subject to the control of the department head concerned and shall require the approval of the City Manager and the Personnel Director. All leaves requested or granted under the requirements of the Family and Medical Leave Act of 1993 shall comply with the guidelines of that Act.

Original requests for special leave of absence without pay shall be for a period not to exceed one year in duration, except for a classified employee who takes leave to accept appointment to a position in the unclassified service. A leave to hold a position in the unclassified service shall terminate when the classified employee either resigns or is returned to his classified position. Any request for extension of leave, except as otherwise provided herein, shall be subject to all the requirements of the original request. The requesting employee shall state the reasons why in his opinion the request should be granted, the date when he desires the leave to begin, and the probable date of his return. Upon the termination of said leave of absence, such employee shall be returned to his position in the department from which he obtained leave of absence, if same is in existence, and he has prior rights over one or more persons in his class; otherwise he shall be transferred to another position or be laid off in accordance with the rules on transfer, seniority, and performance rating. If during leave from a position in the classified service, an employee holds a position in the unclassified service and is dismissed therefrom, such dismissal shall not abrogate his right to a hearing with respect to his position in the classified service.

If, in the opinion of the appointing authority, an employee is incapacitated and unable to work on account of illness, such employee may be required to submit himself to a physician designated or approved by the City for examination, but the employee shall have the right to be represented at such examination by a physician of his own choice at his own expense. If the report of the physician shows the employee to be in an unfit condition to perform his duties, the appointing authority shall have the right to compel such employee to take sufficient leave of absence to fit him to

perform his duties, assign the employee to light duty, or separate the employee from City service.

**15fG. Industrial Leave**

**15fG1. Entitlement:** A certified regular full-time employee who works a schedule at full time fifty-two weeks of the year who is disabled and absent from work as a result of an industrial injury or occupational disease shall be kept on the City payroll and be paid an amount equal to but not to exceed his regular net take home at the current rate of pay for up to one year total per injury.

A Police Reserve Officer who is also a certified regular full-time City of Phoenix employee shall be paid at the same rate as if he had been injured while performing his regular duties as a full-time employee, except that if the beginning Police Officer salary is higher than the employee's regular rate of pay, the beginning Police Officer pay shall be used for determining net take-home pay for up to one year total per injury.

An employee must meet each of the following conditions to qualify for the rate of pay specified in this section:

- A. Be under the jurisdiction of the Industrial Commission of Arizona and be receiving workers compensation for time lost due to an industrial injury received while employed by the City of Phoenix.
- B. Meet the specific requirements of the state of Arizona workers compensation law.
- C. Meet the requirements contained in negotiated Memorandum of Understanding (MOU).

If a decision on compensability of a claim is pending at the State Compensation Fund or Industrial Commission, and it is determined by the Personnel Director that the injury or disease falls within the definition of an industrial injury or occupational disease, the rate of pay specified above shall be granted.

An individual who separates from City employment or from Reserve Officer status shall only be entitled to the compensation required under Arizona workers compensation law

**15fG2. Merit Pay Increase:** Time taken on Industrial Leave or light duty assignment, not in excess of thirty working days, shall be allowed as creditable time in determining eligibility for a normal merit pay increase. If the time exceeds thirty days and the circumstances of the injury so warrant, the employee may receive a merit pay increase on his anniversary date with the recommendation of his department head and approval of the City Manager.

15fG3. Definitions:

- A. "Industrial Leave" is defined as absence from work as the result of:
  - 1. An injury by accident arising out of and in the course of City employment as defined by the Workers Compensation Laws of the State of Arizona.
  - 2. Those occupational diseases arising out of and in the course of City employment as defined by the Occupational Disease Laws of the State of Arizona.
- B. "Net Take-Home Pay" is defined as the biweekly base rate of pay for a full-time employee, less deductions for federal and state income tax, social security tax, and pension plan contributions. It does not include earnings for bonus pay, overtime differential, stand-by pay, or any other pay that is normally not a constant condition of work for the class. In no event shall "net take-home pay" be less than the amount the employee or Police Reserve Officer is entitled to under the State Workers Compensation Laws.

15fG4. Conditions: The employee must meet the following conditions to qualify for industrial leave:

- A. An employee or Police Reserve Officer who refuses to make an election of remedy pursuant to Arizona Revised Statute 23-1023 in event of injury or who rejects the conditions of Workers Compensation Laws of the State of Arizona prior to an industrial injury or illness shall not be entitled to Industrial Leave.
- B. The employee or Police Reserve Officer must sign a prior agreement directing that all warrants for compensation issued by the State Compensation Fund shall be mailed to the City Comptroller, and granting limited power of attorney to the City Comptroller to endorse such warrants on the employee's behalf and to cash the same.
- C. If the employee or Police Reserve Officer elects to sue a third party defendant involved in the accident, and if he proceeds against such other person, the City of Phoenix shall have a lien on the amount actually collectible from such other person to the extent of the monies paid by the City of Phoenix over and above the Workers Compensation, medical, surgical, and hospital benefits paid by the State Compensation Fund.

The amount actually collectible shall be total recovery less the reasonable necessary expenses including attorney fees actually

expended in securing such recovery and less the amounts to be paid to the State Compensation Fund.

159H. **Bereavement Leave:**

A full-time employee may be allowed paid leave time for the purpose of attending to family needs that arise in connection with the death of a member of the employee's immediate family.

"Member of the employee's immediate family" means the mother, father, or step-parent of the employee; husband, wife, child, stepchild, brother, sister, step-brother, or step-sister of the employee; grandchild of the employee; the mother and father of the employee's spouse; domestic partner of the employee; children or parent of the domestic partner; and person residing in the employee's household as a member of the family. A relative who, because of family circumstances, has been a parent substitute to the employee, may be considered as a substitute for mother or father in this definition.

The duration of the paid bereavement leave shall not exceed three working days. Additional air travel time shall be allowed when the burial occurs out of state and the employee travels to that location.