

ORDINANCE 2010-13

AN ORDINANCE AMENDING CHAPTER 89-6 (PERSONNEL POLICIES – TIME AND ATTENDANCE) OF THE CODE OF THE TOWNSHIP OF HILLSBOROUGH, COUNTY OF SOMERSET, STATE OF NEW JERSEY TO AUTHORIZE THE ADOPTION OF A TRANSITIONAL DUTY POLICY

WHEREAS, the Township of Hillsborough does not currently have a transitional or modified duty policy with the exception of General Order 2001-61 applicable to sworn police officers only; and,

WHEREAS, the Central Jersey Joint Insurance Fund (CJJIF), of which Hillsborough is a member, recommends to all member municipalities that a transitional or modified duty policy be adopted covering all municipal employees, as the CJJIF's experience has shown that such policies can help to alleviate the growing cost of workers' compensation, and

WHEREAS, Township Committee believes that employees with temporary job related injuries who are determined by a Physician to be eligible for limited duty should be brought back on the job as soon as possible; and,

WHEREAS, the Township Committee believes that employees who temporarily cannot perform the essential functions of their positions because of injury or illness can still be assigned meaningful work that can be performed consistent with any restrictions, and in the current municipal budget situation, where there can be no growth in the number of employees, it is imperative to gain assistance in the performance of municipal duties from as many sources as possible; and,

WHEREAS, the Township Committee believes that General Order 2001-61 – Temporary Light Duty, and any subsequent amendments and/or replacements to said General Order shall continue to be applicable with regard to sworn police personnel.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hillsborough, County of Somerset, State of New Jersey as follows:

1. Amend Section 89.6 by adding the following:

(G) Transitional Duty

The Township will endeavor to bring employees with temporary disabilities back on the job as soon as possible and may assign transitional duty to employees who temporarily cannot perform the essential functions of their positions because of injury or illness but are capable of performing alternative duty assignments. Transitional duty is not guaranteed and shall be reviewed by the Township Administrator or his or her designee every forty-five (45) workdays. The number and/or the designation of employees on transitional duty shall be at the sole discretion of the Township Administrator or designee. Employees who are injured on duty shall have precedence for eligibility under this policy over employees who suffer an off-duty illness or injury.

The Township Administrator and/or his designee can require transitional duty when the Workers' Compensation physician, the Township physician and/or the attending physician determines that the employee can return to work with restrictions. The temporarily disabled employee can be eligible for transitional duty once the employee is able to return to work with restrictions. Transitional duty will only be assigned if the employee will be able to perform the essential functions of the position after the transitional duty period. The Township Administrator will consult with the Department Head to determine if there is any meaningful work that can be performed consistent with the restrictions. Transitional duty assignments may be to any department and not just the employee's normally assigned department and may be for any duties that are approved by the Physician.

The Township Administrator or designee will decide if it is in the best interest of the Township to approve a transitional duty request and will notify the employee of his or her decision. There will be no positions created for transitional duty assignments. The Township reserves the right to terminate the transitional duty assignment at any time without cause. The granting or denial of a transitional duty assignment or the termination of such assignment shall not be grievable.

Employees may not refuse transitional duty assignments that are recommended by the Workers' Compensation physician, Township physician and/or attending physician. In such cases, failure to report to work as directed shall constitute immediate grounds for dismissal. If the employee believes that the transitional duty assignment is beyond the employee's abilities, the employee may request a meeting with the Township Administrator who will render a written response within twenty-four (24) hours. Refusal to report for work after said meeting shall also constitute immediate grounds for termination.

Employees on transitional duty will receive their regular salaries and benefits. If transitional duty is approved, the employee and/or Workers' Compensation, Township and/or attending physician must keep the Township Administrator informed of the medical progress of the employee. If, at the end of the transitional duty period, the employee is not able to return to work without restrictions, the Township reserves the

right, at its sole discretion, to extend the transitional duty or place the employee back on Workers' Compensation or disability or terminate the employee's employment with the Township. This Policy does not affect an employee's rights under the Americans with Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, the Contagious or Life Threatening Illness Policy or any other applicable Federal or State law.

Employees will not perform transitional duty functions without a statement of medical certification to support the transitional assignment which must be signed by the treating physician, the Workers' Compensation physician and/or the Township physician. The medical certification must include an assessment of the nature and probable duration of the disability, prognosis for recovery, nature of work restrictions and an acknowledgement by the physician to the fact that the employee can physically assume the restricted duties.

Prior to the return to full duty status, the attending physician, the Township physician and/or the Workers Compensation physician must sign a statement of medical certification supporting the reassignment of the employee back to normal duties without restrictions.

2. General Order 2001-61 and any subsequent amendments and/or replacements of said General Order shall continue to be applicable with regard to Temporary Light Duty for all sworn police personnel.

3. This Ordinance shall be effective upon final adoption and publication in accordance with law.

ATTEST:

HILLSBOROUGH TOWNSHIP COMMITTEE

Kevin P. Davis, Clerk

Frank DelCore, Mayor

Introduced: 04/13/10

Published: 04/22/10

Public Hearing: 05/25/10

Adopted: 05/25/10

Published: 06/03/10