

MANCHESTER TOWNSHIP POLICE GENERAL ORDER				
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SUBJECT: PREGNANCY AND MATERNITY LEAVE				
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BY THE ORDER OF: Chief Lisa D. Parker				
SUPERSEDES ORDER #:				

PURPOSE The purpose of this general order is to establish a lawful and equitable policy and procedures regarding pregnancy and maternity leave for sworn personnel within this department who are affected by pregnancy. This general order does not address maternity issues for family members of pregnant female employees or for male employees.

POLICY It is the policy of the Manchester Township Police Department not to discriminate against a sworn employee affected by pregnancy based upon her decision to bear a child. In no way, does this general order affect the privileges of employees under the provisions of any collective bargaining agreement or federal and state law. The information contained within this order is for general guidance. No general order or policy can anticipate all possibilities. Accordingly, each matter will be assessed based upon its own independent facts and circumstances in order to assure compliance with applicable laws.

PROCEDURES

I. GENERAL

- A. Definitions- as they pertain to this General Order:
 - 1. Employee: means a sworn female member of this Department affected by pregnancy. Procedures related to pregnancy of non-sworn female employees of the police department will be in accordance with established township policies and/or applicable collective bargaining agreements.
 - 2. Police Officer: means female police officers of this department affected by pregnancy, regardless of rank.
- B. This department shall remain in compliance with applicable laws including but not limited to the following:
 - 1. *The Pregnancy Discrimination Act*, which is an amendment to *Title VII of the Civil Rights Act of 1964*;
 - 2. *Family and Medical Leave Act (FMLA)*;
 - 3. *Family Leave Act of New Jersey (FLA)*;
 - 4. *Fair Labor Standards Act*;
 - 5. *The Americans with Disabilities Act*;
 - 6. *The New Jersey Law Against Discrimination*, as amended by the *Pregnant Workers Fairness Act*;
- C. Complaints involving unlawful discrimination, harassment or retaliation shall be made in accordance with both the police department's and the township's policy on workplace harassment.
- D. This general order further recognizes the various job titles within the department and realizes that female police officers affected by pregnancy engaged in field activities may require reasonable accommodations in regards to duties and assignments.
- E. To provide women affected by pregnancy the right to work in law enforcement and have children, management must ensure that any policy or procedure regarding pregnancy embodies three basic protections:
 - 1. No policy or procedure shall unlawfully discriminate against an employee because of or based on her pregnancy, childbirth, or related medical conditions.
 - 2. Women affected by pregnancy are entitled to equal treatment in the conditions, benefits, and privileges of employment, including the use of leave for pregnancy or related medical conditions.
 - 3. Women affected by pregnancy who can perform the essential functions of their jobs must be allowed to continue employment, and when disabled

from performing these functions, must be treated the same as other temporarily disabled employees.

- F. Any decisions as to the fitness of a female officer affected by pregnancy to perform her essential functions shall be determined by the employee herself and a licensed medical practitioner and not by Township or department administrators.
- G. Pregnancy and childbirth should remain a joyous occasion for the employee, her family, and the department. Any concerns generated by work related issues should be kept to the barest minimum.
- H. An employee affected by pregnancy cannot be terminated because of her pregnancy.
- I. An employee affected by pregnancy cannot be forced to take any leave as a result of her pregnancy.
- J. Pregnant employees must be permitted to work as long as they are able to perform the essential duties of their position with any reasonable accommodation.
- K. Employees affected by pregnancy who are temporarily unable to perform the essential duties of their position due to her pregnancy will be treated the same as any other employee who is temporarily disabled due to a non-job-related injury or illness, through reasonable accommodations necessitated by the condition such as modified tasks, alternative assignments, temporary transitional/light duty, sick leave, or unpaid leave.
- L. General concern for the protection of an unborn child is not, in itself, a legally acceptable basis for barring a pregnant employee from a particular job assignment.
- M. Management cannot force a pregnant police officer to accept a modified duty assignment solely because of a generalized belief it is unsafe for a pregnant officer to perform field duties. An involuntary modified duty assignment is legally justified only when the officer's pregnancy or medical condition is determined by a medical evaluation to be incompatible with the duties of her regular position. In such instance, management will make every effort to provide an appropriate alternative temporary assignment based on the officer's skills, title and availability of assignments.

II. NOTIFICATION PROCEDURES

- A. Any employee affected by pregnancy shall notify the Chief of Police of her condition when she becomes aware that it or if a medical condition related thereto may impact her job in any way, including but not limited to a necessity to make uniform and/or duty modifications. The employee must also provide written documentation from a licensed medical practitioner, including an anticipated due date, if possible. The Chief of Police shall maintain this information as confidential in a medical file to the extent permitted and/or required by law. However, this information may also be provided to a department designated medical practitioner, the designated township personnel officer and to department personnel as necessary to comply with this general order.

- B. Notices, rights, and obligations related to job protected leaves such as leave pursuant to the FMLA or FLA, disability related medical accommodations, or requests for leave as a reasonable accommodation, follow the orders and policies applicable to each.
1. Right to Privacy - This requirement is not an infringement upon an employee's personal right to privacy. A public safety agency has an obligation to provide uninterrupted service to the community. This early notification is necessary to provide ample time to allow for vacation obligations, court commitments, and other scheduling matters so as not to cause undue disruption to the organization.
 2. Purpose of Notice - Further, this notification provides the Township Personnel Director with timely notification to ensure that the maximum benefits are offered to the employee, that all statutory requirements are fulfilled, and that all union and township provisions regarding job protected leave are properly invoked.
- C. If the employee's attending physician has ordered any restrictions on the type of work that the employee can perform, the physician shall indicate such restrictions on a *MPD Physicians Treatment Status Report*. Physicians cannot dictate or recommend what an employee can or should do, but rather what she cannot or should not do.
- D. An employee affected by pregnancy with physician ordered restrictions on their work activities may be required to visit with a Township designated physician. The Township designated physician may consult with the employee's attending physician and will make any final determination, if necessary, as to the employee's fitness for duty and work status.
- E. Any cost associated with a visit to the Township designated physician will be borne by the Township. (This cost shifting does not apply if the Manchester designated physician happens to be the personal physician of the employee).
- F. The Chief of Police or his/her designee shall ensure that the Township Personnel Director is notified of the pregnancy.

III. **JOB REQUIREMENTS / ACCOMMODATIONS**

- A. A female police officer affected by pregnancy will be able to continue to work in her usual capacity as a law enforcement officer until such point during her pregnancy where she and her physician deem it is in her best interest and that of her baby to do otherwise.
1. Employees must confer with their personal healthcare provider, providing him or her with the agency's job description that delineates the essential job functions of a law enforcement officer and a copy of this policy.
 2. The employee may be required to sign a certification stating that they are in compliance with the foregoing requirements. It would also be beneficial for the physician to review the "Pregnancy" chapter of the ACOEM (American College of Occupational and Environmental Medicine) Guidance for the Medical Evaluation of Law Enforcement Officers.

- B. Both the physician and the employee are expected to consider the risks of remaining on a full-duty status. If there is an objectively reasonable concern that the employee's health condition creates a risk of serious harm or death to the employee or others, the Township may require that the employee confer with her personal healthcare provider in the manner described under paragraph (1) above. The Township also may consult with its healthcare provider and/or the employee's healthcare provider in making this evaluation.
- C. The Township will make any reasonable accommodation necessary for an employee affected by pregnancy and will take into account any specific restrictions identified by the employee's physician.
 - 1. Accommodations of a woman affected by pregnancy may include bathroom breaks, breaks for increased water intake, periodic rest, assistance with manual labor, job restructuring or modified work schedules, and temporary transfers to less strenuous or hazardous work, reassignment and/or a leave of absence.
 - 2. Accommodations will be made unless they would create an undue hardship on the Township.
 - 3. No employee will be retaliated against for requesting or using an accommodation.
- D. Employees not engaged in field or enforcement activities will be permitted to work in that capacity as long as they are able to perform their assigned duties. Physician restrictions on certain work activities including, but not limited to stooping, lifting, carrying heavy objects, not sitting for long periods, etc., will be honored.
- E. Employees with physician ordered restrictions due to their pregnancy can be temporarily assigned to a modified/transitional/light duty assignment for the duration of the pregnancy if the restrictions make them unable to perform their regular essential duties.
 - 1. The assignment and duties of an employee on temporary transitional duty due to her pregnancy are at the discretion of the Chief of Police. The assignment and duties shall not be contrary to the physician's orders or instructions.
 - 2. Duty hours while on modified duty may be modified to suit organizational needs.
- F. Any changes in the physician ordered restrictions must be immediately reported thru the chain of command to the Chief of Police. Any changes may be subject to review by the Township designated physician.
- G. Police officers on sick leave, modified duty, or maternity leave due to their pregnancy are prohibited from working any extra-duty assignments.
- H. Employees may opt to take maternity leave at any time during their pregnancy if they are unable to perform their duties as prescribed by a medical certification by a primary care physician whether on full-duty, restricted duty, or temporary transitional duty.

III. UNIFORM MODIFICATIONS

- A. Pregnant uniformed police officers on full-duty may modify their uniform to accommodate their pregnancy. Maternity trousers and maternity shirts are available and must be the same style and color of the prevailing duty uniform. Any cost associated with the purchase of maternity uniforms will be borne by the department.
 - 1. Such officers are not exempt from wearing body armor when engaged in field activities. Any cost associated with modifying body armor due to pregnancy will be borne by the department.
 - 2. Such officers are not exempt from wearing their regulation duty gun belt or duty handgun when engaged in field activities.
 - 3. Any modifications to duty uniforms and/or gear beyond the scope of sizing must be approved by the Chief or Police or his/her designee.
- B. Pregnant police officers on a temporary transitional/light duty assignment are:
 - 1. Exempt from wearing body armor.
 - 2. Exempt from wearing their regulation gun belt, but will still carry an agency authorized weapon (duty or off-duty), unless given permission to do otherwise by the Chief of Police or his/her designee. Additionally, an employee will not be required to carry a firearm, in those cases when her treating physician has indicated such on the MPD *Physicians Treatment Status Report*.
- C. When the pregnancy progresses to the point where the wearing of a uniform is not feasible, the Chief of Police may permit the wearing of plain clothes, but only for a temporary transitional/light duty assignment.
- D. When the pregnancy progresses to the point where the wearing of a firearm is not feasible, the Chief of Police may permit an exemption from carrying. If an officer is granted an exemption from carrying her sidearm, she shall not be attired in a duty uniform, may not engage in regular field activities and may not operate a marked police vehicle.
- E. Pregnant non-sworn personnel shall be permitted to wear traditional or casual, business-type maternity apparel appropriate for their assignment without restriction.

IV. WEAPONS QUALIFICATION AND PROFICIENCY

- A. Based on the recommendation by the New Jersey Division of Criminal Justice, pregnant police officers are not required to participate in the mandatory firearms qualification and/or less lethal weapons proficiency demonstration during their term of pregnancy. Pregnant officers who wish to qualify or practice with a firearm or less lethal weapon may still do so, but at their own risk.
 - 1. This exemption shall remain in effect until the employee's physician clears her for full-duty status after her pregnancy.

- B. Upon being medically cleared after her pregnancy, the officer shall be scheduled for handgun qualification (and/or less lethal weapons proficiency training) as soon as practicable by the agency's training officer.

V. MATERNITY LEAVE

- A. Maternity leave can be taken at any time a female affected by pregnancy believes it is in her best medical interests to do so and that need is substantiated by appropriate documentation. As with any leave of absence, maternity leave shall run at the same time as FMLA, FLA or other job protected leave, as applicable, to the fullest extent possible.
- B. Maternity leave becomes necessary when the employee or police officer becomes physically incapable of performing her duties, even with reasonable accommodations.
- C. For maternity leave, the employee may use accrued sick time, vacation time, personal time, compensatory time, family and medical leave, or a combination of these, subject to contractual restrictions.
- D. Except in the event of some unforeseen medical condition, the employee should give a minimum of 30 days advance written notice as to when she will begin maternity leave so that the necessary arrangements can be made to staff her position.
- E. The employee should also provide an expected date of return to duty. It is understood that this date is tentative and that the employee may be able to return to work earlier or later than expected.
- F. The Chief of Police or his/her designee shall promptly notify the municipal court administrator or county prosecutor of any leave of absence so that proper notification can be made to reschedule any court appearances.
- G. Except in the event of some unforeseen medical condition, employees should provide a minimum two-week's notice prior to returning to work. Additionally, absent an unforeseen medical condition, employees requesting additional maternity leave must provide a minimum two-week's notice prior to the expected return date.
- H. Requests for additional maternity leave must be made to the Chief of Police and immediately forwarded to the Township Business Administrator for a determination.

VI. POST MATERNITY LEAVE

- A. Employees must be able to work unrestricted duty in their current job title following their return from maternity leave. Management is not required to offer a returning employee a change in title, assignment or duties following their return.
- B. The Chief of Police may grant an extended period of temporary transitional/light duty for a police officer returning from maternity leave based solely upon the officer's medical condition and not child rearing needs. This will be granted on a case-by-case basis and only when supported by medical documentation and is distinguished from any family leave the officer may be entitled to.

- C. Upon returning to duty, an employee who wishes to express breast milk for her child during her workday when separated from her newborn child will be provided with reasonable break times to express breast milk for her baby. The employee will be provided with a suitable room or other location with privacy, other than a toilet stall, to attend to these needs.