

CHAPTER 14
OPTIONS LETTER
REVISED APRIL 2017
TABLE OF CONTENTS

PHILOSOPHY..... 14-3
POLICY..... 14-3
 Commander’s Involvement 14-3
 Employee’s Involvement..... 14-4
OPTIONS LETTER 14-4
EMPLOYEE’S REFUSAL TO RESPOND 14-4
SPECIAL CIRCUMSTANCES..... 14-4

ANNEXES

A – OPTIONS LETTER TEMPLATE 14-5
B – OPTION DISCUSSION CHECKLIST 14-11

THIS PAGE INTENTIONALLY LEFT BLANK

CHAPTER 14

OPTIONS LETTER

1. PHILOSOPHY. In an effort to reduce the impact injuries and illnesses have on employees, the Department shall make all reasonable efforts to fully advise injured employees of their employment options and assist them in making appropriate decisions if they are medically unable to return to their usual and customary occupation.

2. POLICY. Commanders shall ensure that an employee who is medically determined to be permanently precluded from returning to their regular job duties is promptly provided an Options Letter (see Annex A).

a. Commander's Involvement. When an Options Letter is appropriate, commanders shall be personally and actively involved in the process of providing the Options Letter to an employee, and be familiar with every option offered. The following steps shall be followed in the process:

(1) Upon receipt of medical information that outlines a permanent preclusion to full duty, commanders shall contact the Disability and Retirement Unit's (DRU) Disability Coordinator (DC) at (916) 843-3130. Upon contact by a commander, the DC will provide the commander with a template of the Options Letter for personalization.

(2) If the employee is working full duty at the time of notification, the commander shall immediately remove the employee from full duty status, and provide an Options Letter to the employee.

(3) The commander shall ensure that the employee is provided a reasonable amount of time to review and respond to the Options Letter. It is recommended that this review period not exceed 14 calendar days.

(4) When medically feasible, the commander shall ensure that the employee is authorized to work in an appropriate limited-duty assignment pending review and response from the employee to the Options Letter. If a limited-duty assignment is not medically feasible, employees will need to cover their absence by utilizing their leave balances. For employees who have exhausted their leave balances, it is recommended that commands speak with DRU to review all options. The commander shall communicate promptly with the DC to facilitate the provisions of the employee's selected option(s).

(5) The commander shall attempt to meet with the employee and personally discuss the option(s) selected by the employee. The commander shall document all actions taken to accommodate the provisions of the employee's selected option(s).

b. Employee's Involvement. To enhance the Department's ability to provide necessary advice and assistance, the employee shall:

(1) Immediately notify their commander of a medical finding which determines that they are permanently precluded from returning to their regular job duties.

(2) Engage in the interactive process with the commander by responding to the Options Letter in the time period specified. If a response cannot be made in the specified time frame, notify the commander promptly to discuss an extension.

(3) Comply with offers for appropriate limited-duty assignments during the Options Letter review period, pending resolution of conflicting information, or during the appeal of any medical determinations.

3. OPTIONS LETTER. Although some options listed in the letter may not apply to certain employees, it is important that all employees are advised of any and all options. The Options Letter should be personalized. However, commanders shall not modify the letter by adding or eliminating options unless these options have already been offered to the employee and denied. The previous denial of an option should be specifically addressed in the opening paragraphs of the Options Letter.

4. EMPLOYEE'S REFUSAL TO RESPOND. If an employee refuses to respond to the Options Letter, the commander shall notify their Division and the DC to determine the next appropriate step.

5. SPECIAL CIRCUMSTANCES. Although the Options Letter shall be used in all situations in which employees are determined to be permanently precluded from performing their regular job duties, it may also be appropriate to use in situations where the length of an employee's medical condition is indefinite. In these situations, commanders shall contact the DRU to determine if an Options Letter is appropriate.

ANNEX A
OPTIONS LETTER TEMPLATE

State of California—Transportation Agency

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
P.O. Box 942898
Sacramento, CA 94298-0001
(916) 843-3130
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



< < Date >>

File No.: 033. << Author's ID#>>.OptionsLtr

< < Employee Name >>
<< Address>>
<< City, State Zip >>

RE: Options Letter

Dear << Mr. / Mrs. Last Name >>:

The California Highway Patrol (CHP) is in receipt of a medical report, dated <<date>>, from <<Doctor's Name >>, which indicates that you are permanently unable to perform the duties of your current position. Therefore, the following information is being provided to make you aware of the various options which may be available to you. However, please be advised that not all options listed in this letter may apply to you; either because you are not legally entitled to them or you have already exhausted an option(s).

PLEASE REVIEW THE FOLLOWING OPTIONS AND, UTILIZING THE ENCLOSED OPTIONS DISCUSSION CHECKLIST, SELECT THE OPTION(S) YOU WOULD LIKE TO DISCUSS WITH ME. PLEASE RETURN THE COMPLETED OPTIONS DISCUSSION CHECKLIST TO ME PRIOR TO OUR MEETING DATE, SO I CAN BE BETTER PREPARED TO DISCUSS THE PARTICULAR OPTION(S) WITH YOU. YOU MAY CHECK ANY OPTION(S) YOU ARE INTERESTED IN PURSUING.

1. Return to Work.

- a. Full Duty: You may be able to return to work as a <<Classification>> performing full duty with no restrictions if you provide a full medical release, in writing, from your treating physician. This medical release must be provided prior to your return to work. The release must specifically state that you are physically and/or mentally fit to return to full duty with no restrictions.

Safety, Service, and Security



An Internationally Accredited Agency

ANNEX A

OPTIONS LETTER TEMPLATE (*continued*)

<Addressee>

Page 2

<Date>

- b. **Limited Duty:** If your medical condition allows you to return to work with limitations from your treating physician, you may be entitled to return to work under a temporary limited duty assignment. Limited duty may include a modification of your essential duties, work hours, and equipment. If you believe that your medical condition allows you to perform limited duty, you may request limited duty by completing a CHP form 443, Limited Duty Assignment – Physician’s Report. Reference HPM 10.7, Injury and Illness Case Management Manual, Chapter 8, Limited-Duty/Return-To-Work Policy.
- c. **Reasonable Accommodation:** If you believe that you are disabled and a reasonable accommodation would enable you to perform the essential functions of your current position or another position for which you meet the minimum qualifications, you may request a reasonable accommodation by completing a CHP 163, Reasonable Accommodation Request. Reference HPM 10.12, Equal Employment Opportunity Manual, Chapter 4, Persons with Disabilities Program.

Reasonable accommodation is a logical adjustment to a job and/or work environment that enables a qualified disabled person to perform the essential functions of a position. Reasonable accommodation shall not include altering essential job functions or creating positions that do not currently exist. Reasonable accommodation will be provided only when the accommodation is necessary to perform the essential functions of the job. Transportation, personal care needs, and personnel difficulties, are not appropriate reasons for reasonable accommodation.

- d. **Alternative Job Placement/Reassignment:** If you are not eligible for reasonable accommodation in your current classification and you are qualified and would like to pursue alternate placement to another classification, a list of current job vacancies will be provided to you. You may indicate which position(s) you are interested in, and you will be given an opportunity to demonstrate your qualifications for those positions. This option is available through a medical transfer/demotion pursuant to Government Code Section 19253.5 (enclosed).

If, at a later date, you are able to return to full duty in your original classification, under most circumstances you have a mandatory right to reinstate to that classification or an equivalent classification. This option is available through the provisions of Government Code Section 19253.5.

- e. **Temporary Assignment:** A temporary assignment or loan of employees within an agency or between agencies, not to exceed two years, may be available to facilitate your return to work. You would have a mandatory right to return to your former position if you provide a full medical release, in writing, from your treating/evaluating physician.

ANNEX A

OPTIONS LETTER TEMPLATE (*continued*)

<Addressee>

Page 3

<Date>

2. Temporary Leave.

- a. Family Medical Leave Act/California Family Rights Act: If you qualify, you may request a leave of absence under either of these statutes. Both allow qualified employees to take up to 12 weeks of unpaid leave each year when they, or a qualified family member, have a serious health condition. You may be able to utilize existing leave credits. These statutes require that the employer maintain an employee's health, dental, and vision coverage during such leave.
- b. Pregnancy Disability Leave: If you are unable to perform in your current position due to a disability related to pregnancy, you may be entitled to unpaid leave. Accrued leave credits may be available to supplement this leave.
- c. Medical Leave of Absence: You may request an unpaid medical leave of absence for up to one year. Under this option, the employer is not required to maintain an employee's health, dental, and vision coverage. You may choose to pay direct for these benefits yourself.
- d. Leave Balances: You may be able to utilize existing leave balances, including a request for catastrophic leave.
- e. Non-Industrial Disability Insurance: If you have a non-industrial health condition or a denied workers' compensation claim which prevents you from working, you may be entitled to Non-Industrial Disability Insurance (NDI) benefits. The NDI benefit is administered by the Employment Development Department (EDD). Your doctor must provide medical substantiation of your health condition in order for EDD to determine your eligibility for NDI benefits. While on NDI, health, dental, and vision benefits are covered.
- f. State Disability Insurance: State Disability Insurance (SDI) pays part of an employee's wages if you have a non-industrial health condition or a denied workers' compensation claim which prevents you from working. The EDD administers the SDI program. Your doctor must provide medical substantiation of your health condition in order for EDD to determine your eligibility for SDI benefits. While on SDI, the State will not pay employer contributions for health, dental, and vision benefits during that time.
- g. Temporary Total Disability/Industrial Disability Leave (4800.5 time for uniformed)/Vocational Rehabilitation: If you are industrially injured, you may be entitled to temporary Total Disability (TD) benefits, Industrial Disability Leave (IDL) (4800.5 time for uniformed employees) benefits, or if eligible and approved as a qualified injured worker in a workers' compensation case, Vocational Rehabilitation (VR) benefits. The VR benefit is administered through State Fund. Continuation of health care benefits may be available. To determine your eligibility, please contact the State Fund VR coordinator or your workers'

ANNEX A

OPTIONS LETTER TEMPLATE (*continued*)

<Addressee>
Page 4
<Date>

compensation attorney. If you are not represented by an attorney, you may contact an Information and Assistance Officer in any Workers' Compensation Appeals Board office.

- h. Supplemental Job Displacement Benefit: For injuries on or after January 1, 2004, a nontransferable voucher is payable to a state-approved school if your injury resulted in permanent disability, you did not return to work within 60 days after TD benefits ended, and you were not offered modified or alternative work assignments.

3. Separation from State Service.

- a. Disability Retirement: If you are unable to work due to your health condition, you may apply for disability retirement with California Public Employees' Retirement System (CalPERS). Disability retirement is considered a temporary separation from state service. Health benefits are available through CalPERS while you are on retirement status. (If, after you are approved for disability retirement and, at a later date, it is determined that you are able to return to work as a <<Classification>>, you have mandatory rights to reinstate.)

While you await the determination of your disability retirement application from CalPERS, you may use your existing leave credits, request Family Medical Leave Act/California Family Rights Act leave, or request a medical leave of absence. If you are eligible, you may also apply for service retirement pending approval of your disability retirement.

- b. Industrial Disability Retirement: If you are industrially injured, you may be entitled to an Industrial Disability Retirement. This retirement benefit is available ONLY to uniformed employees, public safety dispatchers, and other specified employee groups.
- c. Service Retirement: If you are eligible, you may apply for service retirement with CalPERS. A service retirement is a permanent separation from state service. Health benefits are available through CalPERS and you retain permissive reinstatement rights to state service.
- d. Voluntary Resignation: You may choose to voluntarily resign from state service. You will retain permissive reinstatement rights. However, permissive reinstatement is at the sole discretion of the Commissioner and is only granted in rare occasions. You may be able to purchase health, dental, and vision benefits through Consolidated Omnibus Budget Reconciliation Act.

These options may not include all available legal options. If you have any other options that you would like to discuss, please let me know. If you do not respond to this letter or the CHP is unable to reach a solution, the CHP may pursue one of the following options:

ANNEX A

OPTIONS LETTER TEMPLATE (*continued*)

<Addressee>

Page 5

<Date>

1. If you are able to work in an alternate classification, the CHP may medically transfer or demote you to a vacant position for which you meet the minimum qualifications. We will make an effort to place you in the highest paying vacant position for which you are qualified, which is not promotional, and which meets your medical restrictions.
2. If you are unable to perform the work of your present position and no position is available to which you could be medically transferred or demoted, the CHP may pursue one of the following options:
 - a. **Disability Retirement:** If you have not pursued disability retirement but are eligible to apply, the CHP may file on your behalf. While the application is pending, you may utilize your existing leave credits until exhausted. If you exhaust all of your leave credits prior to CalPERS' determination, you will receive an interim disability allowance equal to the estimated amount of the disability retirement benefit to which you would be entitled. Should CalPERS grant the disability retirement application, you would begin to receive the disability retirement allotment from CalPERS.

If the disability retirement application is denied, you may have a right to return to work, with back pay, less the interim disability allowance received while the application was pending. Your ability to return to work in your prior position, or another position for which you are eligible to medically transfer or demote, will be contingent upon the provision of a full medical release, in writing, from your treating or evaluating physician.

- b. **Medical Termination:** If you are not entitled to disability retirement or you waive your right to file for disability retirement, the CHP may pursue a medical termination pursuant to Government Code Section 19253.5.

IF THE CHP DOES NOT HEAR FROM YOU BY **«Contact By Date»**, AN OPTION WILL BE PURSUED ON YOUR BEHALF.

Sincerely,

«Commander»

«Area»

Enclosures

cc: <<Division>>
Office of Risk Management, Disability and Retirement Unit

THIS PAGE INTENTIONALLY LEFT BLANK

ANNEX B

OPTION DISCUSSION CHECKLIST

OPTION DISCUSSION CHECKLIST

<< Employee Name >>

THE FOLLOWING IS A LIST OF POSSIBLE OPTIONS. PLEASE CHECK AS MANY AS YOU WOULD LIKE TO DISCUSS.

- Return to work full duty with no restrictions
- Return to temporary limited duty/temporary reassignment (employee must complete a CHP 443, Limited Duty Assignment – Physician’s Report)
- Return to work with reasonable accommodation (employee must complete a CHP 163, Reasonable Accommodation Request)
- Medical transfer/demotion to another classification
- Family Medical Leave/California Family Leave
- Medical Leave of Absence
- Use existing leave balance(s)
- Non-Industrial Disability Leave
- State Disability Insurance
- Temporary Disability/Industrial Disability Leave/Vocational Rehabilitation
- Disability Retirement
- Service Retirement
- Voluntary Resignation

THE FOLLOWING DATES WOULD BE CONVENIENT FOR A MEETING. PLEASE CHECK ALL DATES THAT YOU WOULD BE AVAILABLE.

- «MeetingDateOne»
- «MeetingDateTwo»
- «MeetingDateThree»

PLEASE RETURN IN ENCLOSED SELF-ADDRESSED, STAMPED ENVELOPE BY «ContactByDate».

Employee Signature	Date
--------------------	------

THIS PAGE INTENTIONALLY LEFT BLANK