

CHAPTER 3

SICK-OUT

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CHAPTER 3

SICK-OUT

1. DEFINITION. A “sick-out” is an organized effort to temporarily withhold services under the pretext of illness of the employee or a family member to effect a change in terms and conditions of employment. This action may involve all or a significant segment of the employees of the Department.

2. VERIFICATION. When a sick-out is suspected, employees shall be notified they are required to obtain medical verification of their illnesses/injury, including a certification by the treating physician specifying the anticipated length of the absence, any restrictions upon return to work that prevent the employee from performing the full range of their normal work assignment, and anticipated future absences. If conditions allow, supervisory contact should be attempted to verify the reported illness/injury.

3. ORDER BACK TO WORK. The supervisor shall advise the employee if they cannot support their alleged illness/injury by a reasonably prompt certification of their physician (employee’s expense) that they are to return to work.

4. SALARY DOCK. Each employee shall be advised if they fail to provide the required medical certification of the illness/injury, they will be docked for the period of the absence.

NOTE: Docking does not preclude adverse action.

5. MANDATORY PHYSICAL EXAMINATIONS. If the employee says they are too sick to travel, or refuses to go to their private doctor, the commander, with the concurrence from Division and the appropriate Assistant Commissioner, may order the employee be transported by ambulance to a doctor of the state’s choice (at the expense of the state) for examination; or, if arrangements have been made to employ a doctor at the Department’s expense, for house calls, this doctor may be summoned (authority Government Code [GC] 19253.5 [a] and [b], and the State Personnel Board [SPB] Rule 172.3). Division Chiefs who have the availability of state hospitals may wish to make advance arrangements for medical assistance to carry out this examination.

6. REFUSAL ON RELIGIOUS GROUNDS.

a. Compulsory Examination. If the employee refuses this examination by alleging a religious objection, they should be advised authority exists under GC Section 19253.5 and SPB Rule 172.3 to examine their condition to determine their ability to report for duty. The employee shall be ordered to submit to the examination.

b. Affidavit on File. If applicable, the employee should be advised their religious beliefs are not a legal basis for refusal to be examined unless they already have on file an affidavit with SPB (GC Section 19261). If they profess to have a religious affidavit on file, the commander should contact Human Resources Section for verification and proceed accordingly.

c. Supervisory Response. If the employee still refuses to submit to an examination, they should be ordered back to work.

d. Absence Cannot be Substantiated. If the employee responds to a doctor's examination and the employee's alleged condition cannot be substantiated by the physician, the employee shall be given the written Order to Report/Return to Work (Refer to Annex A).

7. ADVERSE ACTION PLANNING.

a. Return to Duty. Once the employee has returned to duty, Division shall be consulted concerning the kind of adverse action to be initiated. The normal process in Highway Patrol Manual 10.2, Internal Investigations Manual, should be followed if adverse action is deemed appropriate.

b. Failure of Employee to Return to Work. If the employee does not report to work as ordered, the Office of Internal Affairs will coordinate with the Office of Employee Relations and the California Department of Human Resources in determining what action to pursue. If the action is to be punitive, the employee's commander will be notified.

ANNEX A

ORDER TO REPORT/RETURN TO WORK

State of California

Transportation Agency

Memorandum

Date: May 19, 2018

To: Name
Civil Service Classification
Home Address

From: DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
(Command)

File No.: XXX.12345.A12345

Subject: ORDER TO REPORT/RETURN TO WORK

On _____ you were counselled by Supervisor _____ of this
Department with regard to your apparent attempt to (strike) (improperly claim sick leave).

You are hereby ordered to report/return for duty at the (Area/section office) on
(hour) (day of week) (date), where you will be required to perform all specified duties of
your position, including all types of enforcement actions set forth in Highway Patrol Manual
100.68, Traffic Enforcement Policy Manual, and the annexes thereto in accordance with the
Department's enforcement policies.

You are hereby notified if, without justifiable cause prevailing, you should fail to report/return to
duty at the time, date, and place set forth above, or if you fail to perform all specified duties
required of you, under and by virtue of Government Code Section 19574, adverse action may be
initiated against you.

I certify that I served this Order on the
above-named employee and delivered them a copy
thereof.

Signature: _____

Title: _____

Date: _____ Time: _____

I have read and understand the above Order delivered to me.

(Signature of Recipient)

Safety, Service, and Security
CHP 51 (Rev. 08/2013) OPI 076



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