

CITY OF SAN DIEGO
ADMINISTRATIVE REGULATION

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RECOVERY OF CITY COSTS FOR EMPLOYEE ABSENCES CAUSED BY OTHER PERSONS	Effective Date December 29, 2017		

1. PURPOSE

- 1.1. To state City policy concerning the recovery of costs incurred by the City due to employee absences or disability retirement because of injury caused by third parties.
- 1.2. To outline a procedure for the recovery of such loss.

2. SCOPE

- 2.1. This A.R. applies to the Risk Management Department's Public Liability and Workers' Compensation Divisions

3. DEFINITIONS

- 3.1. Injuries – harm or damage sustained by City employee.
- 3.2. Loss – City's detriment, disadvantage or deprivation as a result of injury to its employees.
- 3.3. Third Party – Party other than the City.

4. POLICY

- 4.1. As provided for by the State Labor Code Section 3852, it is the intent of the City to recover from third parties who cause *Injuries* to City employees all salary, wage, pension or other emoluments paid to City employees during the absence or premature retirement of said employees from work because of such injury.
- 4.2. Every employee negotiating with a *third party* for a settlement of his/her claim against the *third party* is expected to recover from the *third party* not only the amount of his/her loss but also the amount of *Loss* sustained by the City because of such injury.
- 4.3. No release or settlement of any claim where the City has suffered *Loss* because of employee's injury is valid without the written consent of both the employee and the City (State Labor Code 3859).
- 4.4. The entire amount of such settlement with or without suit is subject to the City's full claim for reimbursement.

(Supersedes Administrative Regulation 63.10, Issue 2, dated May 15, 1970)

Authorized _____

[Signature on File]

CHIEF OPERATING OFFICER

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4.5. Those costs to be recovered may include the following expenses incurred during the employee's absence from work:

- Salary
- Retirement contributions paid by City
- Social Security contributions, if any paid
- Group insurance premiums paid by City
- Vacation benefits accruing during time of disability
- Workers' Compensation benefits

In the event disability retirement is necessitated, retirement pay based and prorated upon actuarial figures may be recovered. Action will also be taken to recover any death benefit paid by the City or Retirement System as the result of any death caused by a *third party*.

5. RESPONSIBILITY

- 5.1. *Injuries* involving City personnel shall be reported to the Workers' Compensation Division of the Risk Management Department.
- 5.2. The Workers' Compensation Division shall review each case to determine if the injury was caused by the act of other persons. If an affirmative determination is made, the Workers' Compensation Division shall coordinate the investigation of all possible claims through the *Loss Recovery* section of the Public Liability Division of the Risk Management Department and shall consult with the City Attorney, as appropriate. If the *Loss Recovery* section determines that a claim is to be pursued, a letter to the employee and the liable party will be initiated advising them of the City's interest and lien on the case.
- 5.3. The *Loss Recovery* Section shall have authority to compromise and determine the actual or compromised costs to be collected.
- 5.4. The *Loss Recovery* Section is authorized to execute a release of claim for losses when the City's claim has been satisfied or at any time when the *Loss Recovery* Section is satisfied that the claim will in fact be paid. The *Loss Recovery* Section shall notify the City Treasurer of claims that are delinquent.

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APPENDIX

Legal Reference

State Labor Code, Sections 3852 and 3859.

Forms

N/A

Subject Index

Recovery; Damages; Losses

Administering Department

Risk Management