

Rule 420

Leaves of Absence

Applicability: Rule 420 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superseded in whole or in part by the collective bargaining agreement. However, all definitions in this Rule are applicable to employees in all classes.

Article I: Leaves of Absence - General Requirements

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Rule 420

Leaves of Absence

Article I: Leaves of Absence - General Requirements

Applicability: Rule 420 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superseded in whole or in part by the collective bargaining agreement. However, all definitions in this Rule are applicable to employees in all classes.

Sec. 420.1 Leaves of Absence - General Requirements

420.1.1 Leaves of absence, hereinafter referred to in this Rule as "leave," shall be governed by the provisions of this Rule. For the purpose of this Rule, "appointing officer" shall mean all elected officials; all department heads designated by the Charter as appointing officers; and all Boards and Commissions when officiating as appointing officers.

420.1.2 Requests for leave shall be subject to the approval of the Director of Transportation/Designee. The decision of the MTA Director of Transportation/Designee is final unless provision for appeal is specifically granted in this Rule. Such requests for appeal shall be processed in accordance with the appeal procedure provided in this Rule. Requests for military, maternity, or witness or jury duty leave shall be granted as provided herein.

420.1.3 Beginning January 1, 2016, amendments to California Labor Code Section 233 (Kin Care Law) authorize employees to use available accrued sick leave, each calendar year to care for a "family member" or themselves, in an amount equal to one-half of their annual accrual. Under the Kin Care Law, available accrued sick leave must be granted upon the employee's oral or written request and the employer shall not deny the right to take such leave, or impose conditions for granting such leave, including the requirement of medical certification.

420.1.4 Except for vacation leave, witness or jury duty leave, compulsory sick leave, disability leave, unpaid administrative leave or absences covered under Labor Code Section 233, an employee requesting a leave for more than five working days shall submit such request on the prescribed form to the MTA Director of Transportation/Designee. With the exceptions noted herein, requests for sick leave in excess of five (5) continuous working days shall be certified by a licensed medical doctor, doctor of dental surgery, doctor of podiatric medicine, licensed clinical psychologist, Christian Science Practitioner or licensed doctor of chiropractic. Verification of sick leave with pay for less than five (5) working days (seven (7) calendar days in the case of part-time

Sec. 420.1 Leaves of Absence - General Requirements

- 420.1.4** **cont.**
employees) as provided elsewhere in this Rule shall be required on an individual basis only and shall be based upon an evaluation of an employee's leave use. For employees taking sick leave pursuant to Administrative Code Chapter 12W, Labor Code Sections 245-249 or Labor Code Section 233, the City may take reasonable measures to verify or document that an employee's use of sick leave is taken in accordance with Administrative Code Chapter 12W, Labor Code Sections 245-249 or Labor Code Section 233.
- 420.1.5** The leave requests shall be retained in the department and maintained in a manner so as to be readily available for audit, review, or analysis, by authorized City personnel, including the Office of Labor Standards Enforcement Staff.
- 420.1.6** Except as otherwise provided in these Rules, leave granted for the period stated on the prescribed form may be extended or abridged only with the approval of the MTA Director of Transportation/Designee. An employee who does not return to work on the approved date shall be deemed as away without official leave and shall be subject to automatic resignation as provided elsewhere in these Rules.
- 420.1.7** Except when an employee requesting sick leave has accumulated unused sick leave with pay credits and except for employees eligible for military leave with pay, organ or bone marrow donor leave with pay, witness or jury duty leave, disability leave or leave due to battery as provided elsewhere in this Rule, or for authorized holiday or vacation, leaves shall be without pay.
- 420.1.8** Refer to the Probationary Period Rule on leave during the probationary period.
- 420.1.9** Exempt employees shall be granted paid sick leave on the ninetieth (90th) day of service. The decision of the MTA Director of Transportation/Designee shall be final and not subject to appeal.
- 420.1.10** An appointee shall not be required to sign a resignation form as a condition of approval of a leave.
- 420.1.11** Leaves granted under this Rule shall be indicated on time rolls as designated by the Controller.
- 420.1.12** An authorized leave granted under this Rule shall not be considered as a break in the continuous service of an employee.

Rule 420

Leaves of Absence

Article II: Sick Leave - General Provisions

Applicability: Rule 420 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superseded in whole or in part by the collective bargaining agreement. However, all definitions in this Rule are applicable to employees in all classes.

Sec. 420.2 **Eligibility for Sick Leave**

Subject to the provisions of this Rule, employees and officers (hereinafter called "employees") who are absent from their duties due to their own illness or disability, or that of a qualifying family member, including preventive care, such as medical or dental appointments, and employees who are victims of domestic violence, sexual assault or stalking, are eligible for sick leave.

Sec. 420.3 **Verification of Sick Leave**

420.3.1 The MTA Director of Transportation/Designee may make such independent investigation as to the necessity for sick leave as is deemed proper under these rules and federal, state and local law and may require certification for any period of sick leave, provided that the employee has been previously notified in writing that such certification for absence of less than five (5) working days shall be required. For employees taking sick leave pursuant to Administrative Code Chapter 12W, Labor Code Sections 245-249 or Labor Code Section 233, the City may take reasonable measures to verify or document that an employee's use of sick leave is taken in accordance with Administrative Code Chapter 12W, Labor Code Sections 245-249 or Labor Code Section 233.

420.3.2 The MTA Director of Transportation/Designee may at any time make such independent investigation as may be deemed proper regarding the illness of any person on sick leave.

Sec. 420.4 **Retirement Automatically Terminates Sick Leave**

Sick leave shall automatically terminate on the effective date of an employee's retirement.

Sec. 420.5 **Abridgment of Sick Leave**

Sick leaves granted in excess of five (5) working days may be abridged if the employee presents to the MTA Director of Transportation/Designee medical evidence of capability to resume all the duties of the position.

Sec. 420.6 **Definition of Sick Leave**

A leave granted under this Rule for one of the following reasons shall be known as "sick leave":

420.6.1 **Sick Leave - Medical Reasons**

Absence for diagnosis, care or treatment of a health condition, including alcoholism, or preventive care, and for employees who are victims of domestic violence, sexual assault or stalking, but excluding illness or injury arising out of and in the course of City and County employment. Absence due to illness or injury arising out of and in the course of employment is administered either under the Rules of the Retirement Board and is referred to as "disability leave" and may be supplemented as provided elsewhere in this Rule or under the provisions of this Rule and the Administrative Code for those employees injured by battery ("leave due to battery").

420.6.2 **Sick Leave – Quarantine**

Absence during a period of quarantine established and declared by the Department of Public Health or other authority.

420.6.3 **Sick Leave – Bereavement**

Absence because of the death of the employee's spouse or domestic partner, parents, step parents, grandparents, parents-in-law or parents of a domestic partner, sibling, child, step child, adopted child, a child for whom the employee has parenting responsibilities, aunt or uncle, legal guardian, or any person who is permanently residing in the household of the employee. Such leave shall not exceed three (3) working days and shall be taken within thirty (30) calendar days after the date of death; however, two (2) additional working days shall be granted in conjunction with the bereavement leave if travel outside the State of California is required as a result of the death.

Sec. 420.6 **Definition of Sick Leave (cont.)****420.6.3** **Sick Leave – Bereavement (cont.)**

For absence because of the death of any other person to whom the employee may be reasonably deemed to owe respect; leave shall be for not more than one (1) working day; however, two (2) additional working days shall be granted if travel outside the State of California is required as a result of the person's death.

420.6.4 **Sick Leave - Maternity**

Absence due to the employee's pregnancy or convalescent period following childbirth. Such leave shall not exceed six (6) months provided that such leave may be extended for permanent employees if a physician certifies that a longer convalescence period is required. Such extensions shall be subject to the provisions of this Rule governing sick leave without pay.

420.6.5 **Sick Leave – Parental Leave**

Absence due to the birth of a child to the employee, the employee's spouse, or the employee's domestic partner or assumption by the employee of parenting or child rearing responsibilities either by adoption or foster care.

420.6.6 **Sick Leave - Illness or Medical Appointment of a Family Member**

Absence for diagnosis, care or treatment of a health condition or injury, or for preventive care for an employee's family member, defined as follows:

- 1) A child, which for the purposes of this section means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.
- 2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.
- 3) A spouse.
- 4) A registered domestic partner.
- 5) A grandparent.
- 6) A grandchild.
- 7) A sibling.

Sec. 420.6 **Definition of Sick Leave (cont.)****420.6.7** **Sick Leave Pursuant to Administrative Code Chapter 12W**

1) Absence due to the illness, injury, medical care, treatment, diagnosis or medical appointment of the employee; employee's child; parent; legal guardian or ward; sibling; grandparent; grandchild; and spouse, registered domestic partner under any state law, or "designated person."

The aforementioned child, parent, sibling, grandparent, and grandchild relationships include not only biological relationships but also relationships resulting from adoption; step-relationships; and foster care relationships. "Child" includes a child of a domestic partner and a child of a person standing in loco parentis.

2) For the purpose of this section, the definition of "designated person" is: one person designated by an employee who has no spouse or registered domestic partner, as the person for whom the employee may use paid sick leave to aid or care for under this section. The opportunity to make such a designation shall be extended to the employee no later than the date on which the employee has worked thirty (30) hours after paid sick leave begins to accrue. There shall be a window of ten (10) business days for the employee to make this designation. Thereafter, the opportunity to make such a designation, including the opportunity to change such a designation previously made, shall be extended to the employee on an annual basis, with a window of ten (10) business days for the employee to make the designation.

420.6.8 **Sick Leave Pursuant to Labor Code Sections 245-249**

Absence for the following purposes: (1) diagnosis, care, or treatment of an existing health condition of, or preventive care for an employee or an employee's family member; or (2) for an employee who is a victim of domestic violence, sexual assault, or stalking, described in Labor Code Section 230, subdivision (c) and Labor Code Section 230.1, subdivision (a).

420.6.9 **Sick Leave – Compulsory**

Leave imposed by the MTA Director of Transportation/Designee due to an employee's medical inability or incapacity to perform all the duties of the position as provided elsewhere in this Rule.

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Article III: Sick Leave with Pay

Applicability: Rule 420 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superseded in whole or in part by the collective bargaining agreement. However, all definitions in this Rule are applicable to employees in all classes.

Sec. 420.7 Sick Leave with Pay Eligibility

420.7.1 Sick leave with pay may be granted to employees who have accrued paid sick leave on the ninetieth (90th) day of service except that supplemental disability credits may be used to supplement disability indemnity payments as provided elsewhere in this Rule regardless of length of service and except that an authorized leave of absence with or without pay granted under this Rule shall not be considered as a break in the continuous service of an employee.

420.7.2 A break in service of more than twelve (12) continuous months by any employee other than an employee designated as a "holdover" will cause prior accumulated sick leave with pay credits to be canceled and eligibility for sick leave with pay must be re-established.

420.7.3 Sick leave with pay credits will continue to accrue at the normal rate while an employee is on either furlough or voluntary unpaid time off in accordance with this Rule, for a maximum of up to ten (10) days per fiscal year for imposed furlough or twenty (20) days per fiscal year for voluntary unpaid time off.

Sec. 420.8 Sick Leave with Pay Eligibility Pursuant to Administrative Code Chapter 12W Effective February 5, 2007, and Labor Code Sections 245-249 Applicable to Employees Not Otherwise Qualified for Sick Leave Effective July 1, 2015

420.8.1 Sick leave with pay may be granted to said employees, on the ninetieth (90) day of service.

420.8.2 Employees hired on or before February 5, 2007, shall immediately be eligible to accrue and use sick leave with pay credits under this section.

420.8.3 A complete separation in service for twelve (12) continuous months by an employee, other than an employee designated as a "holdover" will cause prior accumulated sick leave with pay credits to be canceled and eligibility for sick leave with pay must be re-established.

Sec. 420.8 **Sick Leave with Pay Eligibility Pursuant to Administrative Code Chapter 12W Effective February 5, 2007, and Labor Code Sections 245-249 Applicable to Employees Not Otherwise Qualified for Sick Leave Effective July 1, 2015 (cont.)**

- 420.8.4** Employees rehired within one (1) year following a separation will not be subject to the ninety (90) calendar day eligibility period. And any of previously accrued and unused sick leave hours will be reinstated.

Sec. 420.9 **Sick Leave with Pay - Maximum Accumulation of Credits**

420.9.1 **Sick Leave with Pay – Maximum Accumulation of Credits**

Sick leave with pay credits shall be cumulative but the accumulated balance of unused sick leave with pay credits shall not exceed the equivalent of six (6) months which is the hourly equivalent of 130 working days based on the regular daily work schedule as defined, provided that in no case may the total accumulated unused sick leave with pay credit balance exceed 1040 hours. Maximum accumulated sick leave with pay credits shall be reduced proportionately for employees entering a class or position where the regular work schedule is less than the class exiting if such employees have accumulated unused sick leave with pay credits in excess of the maximum allowable for the new class or position. Such employees shall have all such credits restored upon return to a class or position with an increased regular work schedule.

- 420.9.2** Maximum Accumulation of Credits Pursuant to Administrative Code Chapter 12W Effective February 5, 2007, and Labor Code Sections 245-249 Effective July 1, 2015 Applicable to Employee Not Otherwise Qualified for Sick Leave.

Sick leave with pay credits shall be cumulative but the accumulated balance of unused sick leave with pay credits shall not exceed seventy-two (72) hours under Administrative Code Chapter 12W and forty-eight (48) hours under Labor Code Section 245-249.

Sec. 420.10 **Sick Leave with Pay - Restrictions**

- 420.10.1** Sick leave with pay, beyond that authorized by law, is a privilege recognized by Charter and by Ordinance of the Board of Supervisors and should be requested and granted only in cases of absence because of illness which incapacitates the employee for the performance of duties or as otherwise defined in this Rule.

Sec. 420.10 Sick Leave with Pay – Restrictions (cont.)

420.10.2 Except for absences covered under Labor Code Section 233, the MTA Director of Transportation/Designee may require proof of incapacitation before granting sick leave with pay for any period of time and may withhold pay for failure to submit such proof provided that the employee had been previously notified in writing that such proof would be required for absences of less than five (5) working days.

420.10.3 The rate of earning and accumulating sick leave with pay credits and authorization for its use under this Rule shall in no way inhibit or restrict the right of the MTA Director of Transportation/Designee to establish standards of attendance.

Sec. 420.11 Prohibition Against Employment While on Sick Leave with Pay

420.11.1 Employees are prohibited from working in any other employment while on sick leave with pay unless, after considering the medical reason for the sick leave with pay, the MTA Director of Transportation/Designee, grants permission for the employee to engage in a secondary employment subject to the provisions of these Rules governing such employment.

420.11.2 Violators of this section are subject to disciplinary action as provided in the Charter.

Sec. 420.12 Calculation of Sick Leave with Pay Credits

420.12.1 Unless otherwise provided in this Rule or by ordinance, sick leave with pay credits shall be earned at the rate of .05 hours for each hour of regularly scheduled paid service excluding, overtime exceeding forty (40) hours per week and holiday pay, except that an employee on disability leave shall earn sick leave with pay credits at the normal rate.

420.12.2 Exempt employees shall accrue paid sick leave at a rate of one (1) hour per every thirty (30) hours worked, excluding holiday pay.

Sec. 420.13 Disbursement of Sick Leave with Pay Credits

Sick leave with pay credits shall be used and deducted at the minimum rate in units of one (1) hour for those employees whose credits are calculated in hours.

Sec. 420.14 Conversion of Sick Leave with Pay Credits from Days to Hours

Sick leave with pay credit balances shall be converted from days to hours based on the equivalent number of hours in such employee's sick leave with pay credit balances. The equivalent number of hours shall be based on the employee's authorized normal daily work schedule in effect

Sec. 420.14 **Conversion of Sick Leave with Pay Credits from Days to Hours (cont.)**

on the effective date of this amended Rule, except if the MTA Director of Transportation/Designee determines that such conversion is inequitable and allows another formula to be used.

Sec. 420.15 **Employees Injured by Battery**

420.15.1 An employee absent because of bodily injury or illness received in the course of employment and caused by an act of criminal violence shall be entitled to sick leave with pay under the provisions of the Administrative Code.

420.15.2 Sick leave with pay under this section shall be known as "leave due to battery" and shall be subject to approval by the MTA Director of Transportation/Designee. The MTA Director of Transportation/Designee shall make such investigation as is deemed appropriate and may include medical examinations by a physician(s) designated by the MTA Director of Transportation/Designee.

420.15.3 The decision of the MTA Director of Transportation/Designee may be appealed to the Civil Service Commission whose decision is final.

420.15.4 Authorized sick leave under this section shall not be charged against earned sick leave with pay credits.

Sec. 420.16 **Appeal of Denial of Sick Leave with Pay**

Denial of sick leave with pay to an appointee who is eligible and qualified for such leave is appealable as provided elsewhere in this Rule.

Sec. 420.17 **Reimbursement of Vested and Unused Accumulated Sick Leave with Pay Credits Balance**

420.17.1 An employee who had accumulated unused sick leave with pay credits and who had completed the service requirement on or before December 5, 1978, shall upon the effective date of retirement for service or disability, or upon the date of death, or upon the date of separation caused by industrial accident, be reimbursed for the accumulated unused sick leave with pay credit balance which had been earned on or before December 5, 1978, and not subsequently used ("vested and unused accumulated sick leave with pay credits") in accordance with the following schedule of service requirements and allowances.

Sec. 420.17 Reimbursement of Vested and Unused Accumulated Sick Leave with Pay Credits Balance (cont.)

420.17.1 (cont.)

Schedule of Service Requirements and Allowances for Reimbursement of Vested and Unused Accumulated Sick Leave with Pay Credit Balance at the Time of Retirement, Separation Because of Accident or Death	
Service Requirement	Amount of Cash Reimbursement
15 or more years of service	100%
More than 5 continuous years but less than 15 continuous years of service	50%
Up to and including 5 continuous years of service	33.3%

420.17.2 Reimbursement for the vested and unused accumulated sick leave with pay credit balance shall be further subject to the following:

- 1) The MTA Director of Transportation/Designee shall administer the provisions of this section.
- 2) Deduction shall be made from the unused accumulated sick leave with pay credit balance which existed on December 5, 1978, in an amount proportional to any credits used of that balance. Reimbursement shall be made only for the adjusted amount with all credits from the December 5, 1978, balance subsequently used being deducted.
- 3) Reimbursement for the vested and unused accumulated sick leave with pay credit balance shall be payable at the time of retirement, separation caused by industrial accident or death, or at a later date when so selected by the employee, but within one (1) year of such retirement, separation or death.
- 4) Reimbursement is to be computed at the base rate of pay of an employee's permanent class, at the base rate of pay of the class of a temporary or provisional employee with no permanent status, or at the base rate of pay in a temporary or provisional appointment of an employee with permanent status in another class who has held such temporary or provisional appointment continuously for one or more years at the time of separation.

Sec. 420.17 **Reimbursement of Vested and Unused Accumulated Sick Leave with Pay Credits Balance (cont.)**

420.17.2 (cont.)

5) No reimbursement shall be made for unused sick leave with pay credits earned on or after December 6, 1978.

6) The enactment of this section is not intended to constitute additional compensation, nor be a part of the rate of pay of the employee, but is reimbursement for the vested and unused accumulated sick leave with pay credit balance to which an employee would have been entitled if the employee had not retired, separated due to industrial injury or died.

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Article IV: Sick Leave without Pay

Applicability: Rule 420 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superseded in whole or in part by the collective bargaining agreement. However, all definitions in this Rule are applicable to employees in all classes.

Sec. 420.18 **Sick Leave without Pay – Eligibility**

Subject to the provisions of this section, sick leave without pay may be granted to employees who are not eligible for sick leave with pay or, subject to the approval of the appointing officer or designee, employees may choose not to use their sick leave with pay credits.

Sec. 420.19 **Sick Leave without Pay – Temporary and Provisional Employees**

Sick leave without pay may be granted to temporary or provisional employees. Such leave shall be renewed monthly and shall not be extended beyond three (3) calendar months except for sick leave - maternity.

Sec. 420.20 **Sick Leave without Pay – Permanent Employees**

Sick leave without pay may be approved for permanent employees for the period of the illness provided that requests for prolonged leave shall be renewed every three (3) months and provided further that such leave shall not be extended beyond a period of one (1) continuous year unless there is a reasonable probability that additional leave will enable the employee to return to employment within a reasonable time.

Sec. 420.21 **Prohibition Against Employment While on Sick Leave Without Pay**

420.21.1 Employees are prohibited from working in any other employment when on sick leave without pay unless, after considering the medical reason for the sick leave without pay, the MTA Director of Transportation/Designee, grants permission for the employee to engage in outside employment.

420.21.2 Violators of this section are subject to disciplinary action.

Rule 420

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Article V: Compulsory Sick Leave

Applicability: Rule 420 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superseded in whole or in part by the collective bargaining agreement. However, all definitions in this Rule are applicable to employees in all classes.

Sec. 420.22 Compulsory Sick Leave

- 420.22.1** If the MTA Director of Transportation/Designee has reason to believe that an employee is not medically or physically competent to perform assigned duties, and if allowed to continue in employment or return from leave may represent a risk to co-workers, the public and the employee, may require the employee to present a medical report from a physician designated by the MTA Director of Transportation/Designee certifying the employee's medical or physical competency to perform the required duties.
- 420.22.2** If the employee refuses to obtain such physician's certificate or if as a result of a medical evaluation, the employee is found not to be medically or physically competent, the MTA Director of Transportation/Designee may place the employee on compulsory sick leave.
- 420.22.3** An employee shall remain on compulsory sick leave until such time as the employee is found to be competent to return to duty by a physician designated by the MTA Director of Transportation/Designee, but such leave shall not exceed the maximum period of sick leave provided in this Rule.
- 420.22.4** The employee placed on sick leave under the provisions of this section may appeal as provided under the appeal provisions of the Medical Examination Rule.
- 420.22.5** An employee placed on compulsory sick leave is ineligible for employment with the City and County and shall be placed under waiver on all lists on which the employee's name appears and shall otherwise be unemployable.

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Article VI: Disability Leave

Applicability: Rule 420 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superseded in whole or in part by the collective bargaining agreement. However, all definitions in this Rule are applicable to employees in all classes.

Sec. 420.23 Disability Leave

- 420.23.1** Absence due to illness or injury arising out of and in the course of employment is defined as "disability leave" and is administered under the State Workers' Compensation Laws and the Rules of the Retirement Board.
- 420.23.2** An employee who is absent because of disability leave and who is receiving disability indemnity payments may request, by submitting a signed option statement to the employee's department no later than ninety (90) days following the employee's release from disability leave, that the amount of disability indemnity payment be supplemented with salary to be charged against the employee's supplemental disability credits so as to equal the full salary the employee would have earned for the regular work schedule. The regular work schedule shall be that schedule in effect at the commencement of the disability leave.
- 420.23.3** Supplemental disability credits shall be an account separate from, but equivalent to, the employee's accumulated unused sick leave with pay credit balance except that the supplemental disability credit account shall be adjusted as provided below.
- 420.23.4** Failure to exercise the option to supplement disability indemnity payments within ninety (90) calendar days following release from disability leave will preclude later requests.
- 420.23.5** Supplemental disability credits shall be used at the minimum rate in units of one (1) hour.
- 420.23.6** The employee's department shall submit separate timerolls to reflect this action only after the Retirement System certifies the amount of disability indemnity payment, if any, for the period.
- 420.23.7** Salary may be paid on regular timerolls and charged against the unused sick leave with pay credit balance during any period prior to the commencement of the determination of eligibility for disability indemnity payment without requiring a signed option by the employee.

Sec. 420.23 **Disability Leave (cont.)**

- 420.23.8** When an employee has used sick leave with pay credits and the Retirement System subsequently determines that the employee was entitled to disability indemnity payment for the period of absence, provision shall be made for adjusting the employee's sick leave with pay credit balance and for reimbursing the appropriate City fund for the amount of sick leave with pay credits charged and paid.
- 420.23.9** An employee who uses supplemental disability credits to supplement disability indemnity payments shall, while on disability leave, earn supplemental disability credits at the same rate as sick leave with pay credits.
- 420.23.10** Upon return to duty, an employee who has used supplemental disability credits shall earn sick leave with pay credits at the normal rate and shall earn supplemental disability credits at twice the rate that sick leave with pay credits are earned until such time as the total hours of supplemental disability credits used are regained.
- 420.23.11** Should an employee suffer a recurrence or a new injury before all supplemental disability credits are regained, the supplemental disability credit balance shall be that balance existing at the beginning of the pay period in which the recurrence or new injury occurs and shall be adjusted for the amount of supplemental disability credits subsequently earned and sick leave with pay credits subsequently used.

Sec. 420.24 **Use of Sick Leave with Pay Credits to Supplement State Disability Insurance**

- 420.24.1** Sick leave with pay credits shall be used to supplement State Disability Insurance (SDI) at the minimum rate in units of one (1) hour.
- 420.24.2** SDI payments to an employee who qualifies and who has accumulated and is eligible to use sick leave with pay credits shall be supplemented with sick leave with pay credits so that the total of SDI and sick leave with pay calculated in units of one-hour provides up to, but does not exceed, the regular gross salary the employee would have received for the normal work schedule excluding overtime.
- 420.24.3** An employee who wishes not to supplement, or who wishes to supplement with compensatory time or vacation, must submit a written request on the prescribed form to the MTA Director of Transportation/Designee within seven (7) calendar days following the first date of absence.

Sec. 420.24 **Use of Sick Leave with Pay Credits to Supplement State Disability Insurance (cont.)**

420.24.4 Employees who are supplementing SDI earn sick leave with pay credits at the normal rate only for those hours of sick leave with pay credits used.

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Article VII: Military, War Effort and Sea Duty Leaves

Applicability: Rule 420 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superseded in whole or in part by the collective bargaining agreement. However, all definitions in this Rule are applicable to employees in all classes.

Sec. 420.25 Military Leave

420.25.1 Military leave is governed by the provisions of applicable Federal and State laws, by Charter provision and by this Rule.

420.25.2 Time of War - Definition

The phrase "time of war" is defined elsewhere in these Rules.

420.25.3 Military Leave - Time of War

Leaves of absence shall be granted to officers and employees for service in the armed forces of the United States or the State of California or for service on ships operated by or for the United States government in time of war and for a period not to exceed three (3) months after the conclusion of such service, but not later than one (1) year after the cessation of hostilities, except in case of disability incurred while in active service with the armed forces or the merchant marines when such disability shall extend beyond such period.

420.25.4 Military Leave – Time of Peace

Whenever any officer or employee shall, by order of the government of the United States or by lawful order of any of its departments or officers, or by lawful order of the State of California, or any of its departments or officers, be directed in time of peace to report and serve in the armed forces of the United States, or in the armed forces of the State of California, said officer or employee shall be entitled to a leave of absence from the employee's office or position during the time of such service and for a period not to exceed three (3) months after the expiration thereof.

Sec. 420.25 **Military Leave (cont.)****420.25.5** **Military Leave – Permanent Appointees**

Any officer or employee on military leave, who prior to such leave has been appointed to a permanent position in the City and County service, shall be entitled to resume such position at the expiration of the leave, and in determining and fixing rights, seniority, salary and otherwise which have accrued and shall inure to the benefit of such officer or employee, the term of military leave shall be considered and accounted as part of the employee's service to the City and County.

420.25.6 **Military Leave – Proof of Duty**

Officers and employees requesting military leave shall file with the MTA Director of Transportation/Designee a copy of the orders necessitating such service prior to the effective date of the leave of absence and upon return from such leave shall submit a copy of the discharge or release.

420.25.7 **Military Leave – Salary While on Temporary Leave**

Employees who have been employed by the City and County or any other public agency or have been on military duty for a period of not less than one (1) year continuously prior to the date upon which temporary military leave not exceeding 180 calendar days begins shall, as required by the State of California Military and Veterans' Code (Section 395), receive their regular salary or compensation for a period not to exceed thirty (30) calendar days of such military leave in any fiscal year or more than thirty (30) calendar days during any period of continuous military leave.

420.25.8 **Military Leave – Eligible Not Reached for Certification While in Service - Time of War**

An eligible on a regular civil service list, who served on active military duty not including reserve service during time of war who presents an honorable discharge or certificate of honorable active service within one (1) year from the date of release from military service, shall be preferred for certification for a period of four (4) years after the cessation of hostilities in the order of standing upon the eligible list at the time of entrance into military service and before candidates procuring standing through an examination held subsequent to the entrance of such eligibles into the military service.

Sec. 420.25 Military Leave (cont.)**420.25.9 Military Leave – Eligibles Reached for Certification**

If while in the military service, the name of an eligible was reached for certification to a permanent position and the eligible presents an honorable discharge or certificate of honorable active service within one hundred and 120 days from the date of release from active military duty not including reserve service during time of war, the eligible shall be certified to a position in the class for which so reached; and, for all purposes of seniority, the date of certification if appointed, shall be deemed to be the date when the eligible was reached for certification while in the military service. A person appointed in accordance with this section shall serve the required probationary period. An eligible who is offered appointment in accordance with the provisions of this section and who waives appointment and is subsequently certified after withdrawal of waiver shall have seniority as of the date of such certification.

420.25.10 Military Leave – Participants in Written Examinations

Persons who participate in a written examination and who present their orders or other proof of service within 120 days from the date of release from active military service in time of war shall be allowed to participate in the remaining parts of the examination. If they meet all the eligibility qualifications, they shall be certified as of the date they would have been reached for certification in accordance with their rank based on the entire examination.

420.25.11 Military Leave – Employees or Officers Not Subject to Civil Service Examination

Military leave to an elected or appointed officer, appointed for a definite period of time, shall not be extended beyond the period of time for which elected or appointed, provided that if such officer is re-elected or reappointed, then military leave shall be automatically extended for such ensuing period of time.

Military leave to an employee occupying a position exempt from civil service examination shall not extend beyond the period of time for which the employee's appointing officer was elected or appointed.

Sec. 420.26 **War Effort Leave**

The Board of Supervisors may provide by ordinance that leaves of absence shall be granted to officers and employees during time of war for service directly connected with the prosecution of the war or national defense or preparedness.

Sec. 420.27 **Leave for Sea Duty as Licensed Officers**

In time of war or while any act authorizing compulsory military service or training is in effect, the Board of Supervisors may provide by ordinance that leaves of absence shall be granted to officers and employees for sea duty as licensed officers aboard ships operated by or for the United States government. The Commission shall amend this section to implement such ordinance.

Sec. 420.28 **Leave for Spouse or Registered Domestic Partner During Leave from Deployment of Qualified Member**

420.28.1 In compliance with the State of California Military and Veterans Code, an eligible employee who is a spouse or registered domestic partner of a qualified member of the Armed Forces, National Guard, or Reserves shall be allowed to take up to ten (10) days of leave during a period of leave from deployment of the qualified member.

420.28.2 An “eligible employee” is an employee who meets all of the following conditions:

- 1) is a spouse or registered domestic partner of a qualified member;
- 2) works on average twenty (20) or more hours per week and is not an independent contractor;
- 3) provides notice to the City, within two (2) business days of receiving official notice that the qualified member will be on leave from deployment, of his or her intention to take leave; and
- 4) submits written documentation to the City, certifying that the qualified member will be on leave from deployment during the time of leave.

420.28.3 A “qualified member” is any of the following:

- 1) A member of the Armed Forces of the United States who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States; or
- 2) A member of the National Guard who has been deployed during a period of military conflict; or
- 3) A member of the Reserves who has been deployed during a period of military conflict.

Rule 420

Leaves of Absence

Article VIII: Unpaid Administrative Leave or Furlough

Applicability: Rule 420 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superseded in whole or in part by the collective bargaining agreement. However, all definitions in this Rule are applicable to employees in all classes.

Sec. 420.29 Unpaid Administrative Leave or Furlough

420.29.1 General Provisions

- 1) Notwithstanding the layoff and involuntary leave provisions or any other provisions of these Rules, the MTA Director of Transportation/Designee is authorized to impose unpaid administrative leave (furlough) on any MTA employee as provided in this section. The imposition of furloughs shall be subject to receipt of a Projected Deficit Notice (PDN) from the Controller stating that the department's budget will be insufficient to support the department's level of spending through the end of the fiscal year.
- 2) The authority of the MTA Director of Transportation/Designee to impose furloughs shall be limited to those furloughs necessary to correct the projected deficit identified by the Controller.
- 3) This Rule shall apply to all employees of the City and County.
- 4) No provision of Layoff and Involuntary Leave, including but not limited to any provision regarding the order of layoff, displacement of less senior employees, or reinstatement, shall be applicable to any employees furloughed hereunder.

420.29.2 Voluntary Unpaid Time Off

- 1) Prior to imposing a furlough on any employee, the MTA Director of Transportation/Designee shall attempt to determine, to the extent feasible and with due consideration for the time constraints which may exist for eliminating the projected deficit, the interest of employees within the appointing officer's jurisdiction in taking unpaid personal time off on a voluntary basis.

Sec. 420.29 **Unpaid Administrative Leave or Furlough (cont.)****420.29.2** **Voluntary Unpaid Time Off (cont.)**

2) The MTA Director of Transportation/Designee shall have full discretion to approve or deny requests for voluntary unpaid time off based on the operational needs of the department and any court decrees or orders pertinent thereto. The decision of the MTA Director of Transportation/Designee shall be final except in cases where requests for voluntary unpaid time off in excess of ten working days are denied. In such cases, an employee may appeal in accordance with the procedures provided below for appealing imposition of furlough.

3) An employee shall be entitled to take up to ten (10) unpaid days per fiscal year at the rate of no more than five (5) days in a three (3) month period, at the employee's discretion, upon at least fifteen (15) calendar days prior written notice to the employee's appointing officer. Such request shall not be denied except for the reason of a requirement that such position be filled on an overtime or premium pay basis, for essential operational needs or the requirements of a court decree or order.

420.29.3 **Furloughs**

1) The MTA Director of Transportation/Designee is encouraged to furlough entire operational units within departments rather than individual employees; or stagger work hours within an operational unit on a reduced hours basis. The decision of the appointing officer to impose furloughs under this subsection, and the appointing officer's determination of what constitutes an operational unit, shall be final.

2) Where, in the discretion of the MTA Director of Transportation/Designee, furlough of an operational unit as prescribed above is not feasible, individual employees within an operational unit may be furloughed.

3) To the extent practicable, furlough shall be equitably distributed among all of the employees within the affected operational unit to which the Projected Deficit Notice (PDN) has application; and, all of the employees in the affected class(es).

Sec. 420.29 Unpaid Administrative Leave or Furlough (cont.)**420.29.3 Furloughs (cont.)**

4) In determining which employees to furlough, the MTA Director of Transportation/Designee shall consider citywide seniority within a class as well as considering the operational needs of the MTA.

5) In no event shall furlough be imposed upon an employee for more than four (4) days in any three (3) month period or ten (10) days in any fiscal year. Voluntary time off not to exceed a total of five (5) days per quarter or ten (10) days per year, approved pursuant to this section, shall be credited toward the maximum number of furlough days which may be imposed pursuant to this Rule.

6) Employees placed on furlough pursuant to this section shall be notified in writing at least fifteen (15) calendar days in advance of the effective date for the furlough.

7) The decision to furlough an individual employee within an operational unit shall be final except that an employee given notice of a furlough, which taken together with an employee's prior furloughs in the same fiscal year would exceed five (5) working days within any six (6) month period, may file an appeal. Such appeals must be in writing and filed within three (3) calendar days of the date of the notice of furlough with the MTA Director of Transportation/Designee. The MTA Director of Transportation, the Mayor and the Controller, or their designees, who shall meet on no less than twenty-four (24) hours public notice. The determination regarding the appeal shall be rendered within seven (7) calendar days of the date of the appeal. This decision is final and shall not be reconsidered by the Commission. The MTA Director of Transportation/Designee shall notify the employee of the decision prior to the effective date of the furlough.

420.29.4 Restrictions on Use of Paid Time Off While on Voluntary Unpaid Time Off or Furlough

1) All voluntary unpaid time off or furlough imposed or granted pursuant to this section shall be without pay.

2) Employees granted voluntary unpaid time off or placed on furlough are precluded from using sick leave with pay credits, vacation credits, compensatory time off credits, floating holidays, training days or any other form of pay for the time period involved.

Sec. 420.29 **Unpaid Administrative Leave or Furlough (cont.)****420.29.5** **Imposition of Furlough - Fair Labor Standards Act (FLSA) Restrictions**

1) Furlough for employees who are non-exempt under the Fair Labor Standards Act (FLSA) shall be imposed in minimum increments of one (1) hour.

2) Furlough for employees who are exempt under the Fair Labor Standards Act (FLSA) shall be imposed in minimum increments of one (1) day.

420.29.6 **Vacation and Sick Leave with Pay Accruals While on Voluntary Unpaid Time Off or Furlough**

Subject to passage of necessary ordinances by the Board of Supervisors, vacation and sick leave with pay accruals shall continue during a maximum of ten (10) days of furlough in any fiscal year, or a maximum of twenty (20) days for approved voluntary unpaid time off taken pursuant to this Section in any fiscal year.

420.29.7 **Duration and Revocation of Voluntary Unpaid Time Off or Furlough**

Furlough imposed upon an employee shall remain in force for the period specified in the written notice unless sooner revoked by written notice from the MTA Director of Transportation/Designee. Approved voluntary unpaid time off taken pursuant to this section may not be changed by the MTA Director of Transportation/Designee without the employee's consent.

420.29.8 **Resolution of Disputes**

Except as provided elsewhere in this section, the MTA Director of Transportation/Designee shall act on all disputes arising out of the application or implementation of the provisions of this section. The decision of the MTA Director of Transportation/Designee shall be final and shall not be reconsidered by the Commission.

Rule 420

Leaves of Absence

Article IX: Other Leaves of Absence

Applicability: Rule 420 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superseded in whole or in part by the collective bargaining agreement. However, all definitions in this Rule are applicable to employees in all classes.

Sec. 420.30 **Leave to Accept Other City and County Position**

420.30.1 Leave by an employee who has completed the probationary period to accept exempt or temporary appointment in the City and County service may be approved for the duration of such appointment. Such leave by a probationary employee is subject to the provisions of the Rule governing the Probationary Period.

420.30.2 Denial of such leave by the MTA Director of Transportation/Designee is appealable as provided elsewhere in this Rule.

Sec. 420.31 **Educational Leave**

420.31.1 Educational leave is defined as leave for the purpose of educational or vocational training in a field related to the employee's current position and as any training to which a veteran is entitled pursuant to the laws of the United States or the State of California.

420.31.2 Educational leave may be approved for permanent appointees for a period of up to one (1) year. Requests for educational leave of longer than one (1) year must be renewed each year.

420.31.3 Denial of educational leave is appealable as provided elsewhere in this Rule.

420.31.4 An employee on educational leave shall not accept other employment without approval of the MTA Director of Transportation/Designee.

420.31.5 As soon as records are available, the employee shall periodically present to the MTA Director of Transportation/Designee a record of completed educational work. These records shall be maintained in such a manner as to be readily available for audit. Failure to submit an acceptable record of completed educational work shall subject the employee to disciplinary action as provided in the Charter.

Sec. 420.32 **Leave for Civilian Service in the National Interest**

- 420.32.1** Civilian service in the national interest is defined as leave to serve with a Federal, state or other public agency or non-profit organization in a program or in a capacity which the MTA Director of Transportation/Designee deems to be in the national or general public interest.
- 420.32.2** Such leave may be approved for permanent appointees for a period of up to one (1) year. Requests for such leave of longer than one (1) year must be renewed each year.
- 420.32.3** Denial of such leave is appealable as provided elsewhere in this Rule.

Sec. 420.33 **Leave for Employment as an Employee Organization Officer or Representative**

- 420.33.1** Leave for employment as an employee organization officer or representative is defined as leave to serve full-time as an officer or representative of an employee organization whose membership includes City employees, or to attend a convention or other type of business meeting of an employee organization as an officer or delegate of the employee organization.
- 420.33.2** Leave for permanent appointees may be approved for the duration of such service.
- 420.33.3** Denial of such leave is appealable as provided elsewhere in this Rule.

Sec. 420.34 **Family Care Leave****420.34.1** **Definition of Family**

A unit of interdependent and interacting persons, related together over time by strong social and emotional bonds and/or by ties of marriage, birth, and adoption, whose central purpose is to create, maintain, and promote the social, mental, physical and emotional development and well being of each of its members.

- 420.34.2** Permanent employees who have one (1) or more years of continuous service in any status may be granted up to one (1) year of unpaid family care leave for the following reasons:

- 1) The birth of a biological child of the employee;

Sec. 420.34 **Family Care Leave (cont.)****420.34.2** **(cont.)**

2) The assumption by the employee of parenting or child rearing responsibilities. Family care leave does not apply to an employee who temporarily cares for a child for compensation, such as a paid child care worker;

3) The serious illness or health condition of a family member of the employee, the employee's spouse or domestic partner, a parent of the employee or the employee's spouse or domestic partner, the biological or adoptive child of the employee, or a child for whom the employee has parenting or child rearing responsibilities; or

4) The mental or physical impairment of a family member of the employee, the employee's spouse or domestic partner, a parent of the employee or the employee's spouse or domestic partner, the biological or adoptive child of the employee, or a child for whom the employee has parenting or child rearing responsibilities, which impairment renders that person incapable of self-care.

420.34.3 Family care leave is unpaid leave. Such leave may be granted in addition to accumulated compensatory time off, vacation time, floating holiday time or sick leave as specified under Sick Leave - Illness or Medical Appointment of Child, Parent, Spouse or Registered Domestic Partner.

420.34.4 Denial of family care leave is appealable as provided elsewhere in this Rule.

Sec. 420.35 **Witness or Jury Duty Leave**

420.35.1 An employee who is summoned as a witness on behalf of the City and County or juror for a judicial proceeding shall be entitled to leave with pay less the amount of juror or witness fee paid for the period required for such service (Charter Section A8.400G). An employee who is summoned to serve as a witness in cases which involve outside employment or personal business affairs shall be placed on leave without pay unless vacation leave or compensatory time is requested and granted.

420.35.2 Paid witness or jury duty leave shall be only from an employee's scheduled duty time and shall not include hours outside of scheduled hours of work or on days off.

Sec. 420.35 **Witness or Jury Duty Leave (cont.)**

420.35.3 Such employees shall notify the MTA Director of Transportation/Designee immediately upon receiving notice of jury duty.

420.35.4 An employee who takes vacation leave while on witness or jury duty leave shall receive regular salary.

420.35.5 Refer to the Probationary Period Rule on leave during the probationary period.

Sec. 420.36 **Holiday Leave**

Holiday leave shall be as provided by ordinance of the Board of Supervisors.

Sec. 420.37 **Vacation Leave**

Vacation leave shall be as provided in the Charter and by ordinance of the Board of Supervisors.

Sec. 420.38 **Involuntary Leave of Absence**

420.38.1 Whenever it becomes necessary to effect a reduction in force due to lack of work or lack of funds which shall result in the displacement of a permanent or probationary appointee from the City and County service, the MTA Director of Transportation/Designee, notwithstanding other provisions of these Rules governing leaves of absence, shall place such employees on a leave of absence of an involuntary nature unless the employee elects to be laid off.

420.38.2 Such reductions in force shall be effected by the provisions of this Rule governing seniority and order of layoff.

420.38.3 Employees placed on an involuntary leave of absence shall be ranked on the holdover roster for the class from which laid off and shall be returned to duty as provided in this Rule.

420.38.4 Leaves of absence imposed under the provisions of this Rule shall expire upon the return to duty of the holdover, upon the expiration of holdover status, or upon written request of the employee to elect to be laid off while on involuntary leave.

Sec. 420.39 **Religious Leave**

- 420.39.1** Employees may be granted leave when personal religious beliefs require that the employee abstain from work during certain periods of the work day or work week. Such leave shall be known as "Religious Leave."
- 420.39.2** Religious leave shall be without pay unless the employee elects to use accumulated compensatory time off, vacation time, or floating holiday time.
- 420.39.3** Denial of religious leave is appealable as provided elsewhere in this Rule.

Sec. 420.40 **Personal Leave**

- 420.40.1** Personal leave is defined as leave for reasons other than those covered in other sections of this Rule.
- 420.40.2** Personal leave for permanent employees may be approved for a period of up to twelve (12) months within any two-year period. Personal leave for temporary or provisional employees may be approved only if replacement of the employee is not required and for a maximum of one (1) month.
- 420.40.3** The MTA Director of Transportation/Designee may for reasons deemed to be in the best interest of the service approve extension of personal leave for permanent employees beyond a twelve (12) month period.

Rule 420

Leaves of Absence

Article X: Appeal Procedures

Applicability: Rule 420 shall apply to all Service-Critical classes of the Municipal Transportation Agency (MTA), except that the provisions of Rule 420 may be superseded in whole or in part by the collective bargaining agreement. However, all definitions in this Rule are applicable to employees in all classes.

Sec. 420.41 Appeal Procedures

420.41.1 Appeals concerning furloughs or voluntary unpaid time off are excluded from appeal under this section and are appealable as provided elsewhere in this Rule.

420.41.2 In cases where appeal is specifically granted in this Rule, a dispute concerning the application or implementation of the provisions of this Rule shall be processed EITHER, at the option of the employee:

1) in accordance with the grievance procedure provided for unrepresented employees or in a collective bargaining agreement;

2) by appeal in writing to the MTA Director of Transportation/Designee, whose decision shall be final and shall not be reconsidered by the Commission. A decision under one option shall preclude the use of the other option.