

## WORLD TRADE CENTER STATUTORY LINE of DUTY SICK LEAVE

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### I. PURPOSE

This policy directive establishes the procedures for providing employees of the Metropolitan Transportation Authority and its subsidiary and affiliate agencies (“MTA”) paid line of duty sick leave for a Qualifying WTC Health Condition resulting from participation in the World Trade Center (“WTC”) rescue, recovery or clean-up operations pursuant to Section 92-d of the New York State General Municipal Law.

### II. SCOPE

This policy directive applies to all represented and non-represented employees of the MTA, including the following subsidiary and affiliate agencies: the Long Island Rail Road Company (“LIRR”), MTA Construction and Development Company (“C&D”), the Triborough Bridge & Tunnel Authority (“TBTA”), MTA Bus Company (“MTABC”), Metro-North Commuter Railroad Company (“MNR”), the New York City Transit Authority (“NYCTA”), including the Manhattan and Bronx Surface Transit Operating Authority (“MaBSTOA”) and the Staten Island Rapid Transit Operating Authority (“SIRTOA”), and any future subsidiary or affiliate entity of the MTA (collectively known as “MTA Agencies” or “MTA”).

### III. DEFINITIONS

- A. **Qualifying WTC Health Condition:** A qualifying condition or impairment of health resulting in disability to an employee who participated in the WTC rescue, recovery or clean-up operations for a qualifying period as defined in Section 2(36) of the New York Retirement and Social Security Law (“RSSL”).
- B. **Notice of Participation in WTC Rescue, Recovery or Clean-Up:** A sworn statement filed with an employee’s retirement system indicating the dates and locations of an employee’s participation in the WTC rescue, recovery or clean-up operations that preserves an employee’s right to file for disability retirement under the WTC Disability Law.
- C. **WTC Line of Duty Sick Leave:** Leave granted to an employee who files a Notice of Participation and subsequently develops a Qualifying WTC Health Condition as defined in Section (2)(36) of the RSSL. WTC Line of Duty Sick Leave is available commencing on the date the employee was medically diagnosed with a Qualifying WTC Health Condition regardless of whether the employee was employed by the MTA when performing WTC rescue, recovery or clean-up

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operations. WTC Line of Duty Sick Leave is available each time an employee is absent from work due to a Qualifying WTC Health Condition and is in addition to any other leave provided by the MTA.

### IV. POLICY

- A. MTA employees who participated in the WTC rescue, recovery or clean-up operations and subsequently develop a Qualifying WTC Health Condition, may, upon written request, receive WTC line of duty sick leave from the date the condition was medically diagnosed.
- B. In order to be eligible for WTC Line of Duty Sick Leave, an employee must file a Notice of Participation in the WTC rescue, recovery or clean-up operation with an acceptable entity (e.g. NYS and Local Retirement System, NYC Employee's Retirement System, NYC Fire Pension Fund, NYC Police Pension Fund, NYC Teachers' Retirement System, MaBSTOA Pension Plan, other entities as applicable) and must have a Qualifying WTC Health Condition as the term is defined in RSSL Section 2(36).
- C. WTC Line of Duty Sick Leave requests will be considered on a case-by-case basis, and the following conditions must be met:
  1. Employee has provided the MTA with an approved Notice of Participation in WTC rescue, recovery or clean-up operations verifying such participation.
  2. Employee has a medically certified Qualifying WTC Health Condition.
  3. Employee was employed by the MTA, New York State, a New York municipal corporation, or another New York public authority at the time of the WTC rescue, recovery or clean-up operations.
  4. Employee was absent from work at the MTA (either paid or unpaid) in connection with the medically certified Qualifying WTC Health Condition on the days they claim they are entitled to WTC line of duty sick leave.
  5. Employee has not already received a similar benefit pursuant to a collective bargaining agreement.

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### V. PROCEDURE

- A. Employees requesting a WTC Line of Duty Sick Leave must complete the MTA WTC Line of Duty Sick Leave Request Form. The form and all supporting documentation should be submitted to the Agency People/Human Resources designee(s) for the employee's respective agency.
  
- B. A request for WTC Sick Leave must be accompanied with the following documentation:
  - 1. Notice of Participation in the WTC Rescue, Recovery or Clean-up operations and an acceptance letter from the retirement system that the employee was a member when participating in such rescue, recovery and clean-up operations.
  
  - 2. Medical evidence of a qualifying WTC condition and the date the condition commenced. For example, WTC Health Program Certification of Health Condition(s) or similar document.
  
  - 3. HIPPA release granting MTA Occupational Health Services (OHS) or affiliate agency designee where applicable, access to relevant medical records necessary to review the employee's request.
  
  - 4. List of dates for which sick leave was used due to a medically certified Qualifying WTC Health Condition(s).
  
  - 5. Appropriate medical documentation that the requested prior and prospective absences were due to incapacity, medical treatment or medical testing related to the employee's Qualifying WTC condition(s). For example, sick leave applications, FMLA applications, doctor's notes, records of urgent care visits, discharge paperwork, etc. For prior absences for which an employee is seeking retroactive restoration and does not have specific medical documentation available from the time of the absence, the employee may submit an attestation from their medical provider indicating the purpose of the absence was related to their Qualifying WTC Condition(s). Such attestation must list the date of absence and provide that the absence was specifically related to the employee's Qualifying WTC Condition(s).

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- D. As necessary, the MTA People/Human Resources designee(s) will consult with OHS or affiliate agency designee where applicable, to determine that absences are related to the employee’s Qualifying WTC Health Condition(s), which includes review of supporting medical documentation submitted by the employee. At all times, confidential medical information should not be disclosed beyond Human Resources and OHS or affiliate agency designee where applicable. After the file is closed, Agency People/Human Resources designee will send all confidential medical information to OHS or affiliate agency designee where applicable, for recordkeeping purposes.
  
- E. MTA People/Human Resources designee(s) will consult with Agency Timekeeping to confirm the dates of absence and whether the employee used paid or unpaid leave for the requested absences. The designee should also consult with the applicable Workers’ Compensation Department (if applicable) to determine if the employee filed a claim related to their WTC condition and if benefits were paid for the period of absence.
  
- F. The MTA People/Human Resources designee(s) will provide a final recommendation to the MTA Chief Employee Relations and Administrative Officer, or designee. The Agency People/Human Resources designee will forward approved requests to Agency Timekeeping for processing and notify the employee of the determination. If the employee filed a Workers’ Compensation Claim, a copy of the approval should also be sent to the applicable Workers’ Compensation Department (if applicable).
  
- 1. If WTC Line of Duty Sick leave is approved, and the employee used paid sick leave for a Qualifying WTC Health Condition, then the employee’s leave balances will be adjusted to restore all approved sick leave to the employee’s sick leave bank.
  - a. If the employee used any unpaid absences for a Qualifying WTC Health Condition due to depleted sick leave balances, the employee will be reimbursed at the rate of pay in effect when the unpaid leave was taken.

Timekeeping records reflecting restoration and/or pay should be forwarded to the designee.

- 2. If an employee believes in good faith that relevant information was not considered in making a determination, the employee may submit a written request for reconsideration with any information that they think was not considered. The request for reconsideration must be submitted to the designee within ten (10) calendar days from the date of receipt of the

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determination. This written request for reconsideration is the sole remedy for reviewing a determination.

G. The Agency People/Human Resources designee will maintain all records related to submitted requests and provide any necessary information for reimbursement requests.

### VI. WAIVER

Any exception to this Policy Directive must be approved by the MTA Agency People/Human Resources Lead or designee. A copy of any waiver of this policy directive must be sent to MTA Corporate Compliance.

### VII. FORMS

- A. The World Trade Center (WTC) Rescue, Recovery or Clean-Up Operations Sick Leave Request Form is available on MY MTA Portal.
- B. The Authorization for Release of Health Information Pursuant to the HIPAA Form is available on MY MTA Portal.

### VIII. POLICY LIFECYCLE

This Policy Directive will be reviewed every three (3) years and revised as necessary. As with all MTA Policies, MTA reserves the right to modify or rescind this Policy Directive at its sole discretion at any time.

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**THIS FORM IS AVAILABLE ON MY MTA PORTAL**

### World Trade Center (WTC) Rescue, Recovery or Clean-Up Operations Sick Leave Request Form

Pursuant to General Municipal Law Section 92-d

Section 1- Employee Information (Please Print)			
Last Name:	First Name:	M.I.	BSC ID:
Suffix:			Pass Number:
Department:	Work Location:	Title:	
Telephone Number:	Email:		
Employer at the time of your participation in WTC rescue, recovery or clean-up operations*			
Name of Employer:			
Address:			
*If the employer was not the MTA/Affiliate Agency, attach documentation of such employment. Documentation can consist of tax returns or W-2's, for example. If you have questions about what documentation will suffice, please contact your Agency's People/Human Resources designee.			

Section 2- Required Documentation
Your request for WTC Sick Leave must be accompanied with the following documentation:
<ol style="list-style-type: none"> <li>1) Notice of Participation and acceptance letter verifying your participation in the WTC rescue, recovery or clean-up operations.</li> <li>2) Medical evidence of a qualifying WTC condition and the date the condition commenced. For example, WTC Health Program Certification of Health Condition(s) or similar documents).</li> <li>3) HIPPA Release granting MTA Occupational Health Services (OHS) or affiliate agency designee where applicable, access to relevant medical records necessary to review your request.</li> <li>4) List of absence dates for which you used sick leave due to a medically certified Qualifying WTC Health Condition(s). (See Section 3 below)</li> <li>5) Appropriate medical documentation that the requested prior and prospective absences were due to incapacity, medical treatment or medical testing related to the employee's Qualifying WTC condition. For example, sick leave applications, FMLA applications, doctor's notes, records of urgent care visits, discharge paperwork, etc. For prior absences for which an employee is seeking retroactive restoration and does not have specific medical documentation available from the time of the absence, the employee may submit an attestation from their medical provider indicating the purpose of the absence was related to their Qualifying WTC Condition(s). Such attestation must list the date of absence and that the absence was specifically related to the employee's</li> </ol>

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Qualifying WTC Condition(s). If additional information is needed, contact your Agency People/Human Resources designee.

**Note:** If you were employed by a New York State, New York municipal corporation, or New York public authority other than the MTA/affiliate agency at the time of your participation in the WTC rescue, recovery or clean-up operations, documentation of such employment will be required.

### Section 3-Absence Information

#### Date medically diagnosed with Qualifying WTC Health Condition(s):

List sick leave dates below. Use additional sheets if necessary. Please attach any sick leave applications or other supporting documentation you have for these absences.

Have you filed a Workers Compensation Claim related to your participation in the WTC Rescue, Recovery or Clean-up Operations? Yes \_\_\_\_\_ No \_\_\_\_\_

I hereby certify that I have not received a similar benefit for the dates above pursuant to a collective bargaining agreement.

Employee Signature:

Date:

Date Request Received: