

ADM-11.38, "Employee Deaths, Catastrophic Injuries, and Survivor...,"

SCDC POLICY

NUMBER:ADM-11.38

TITLE:EMPLOYEE DEATHS, CATASTROPHIC INJURIES, AND SURVIVOR ASSISTANCE

ISSUE DATE: February 2, 2015

RESPONSIBLE AUTHORITY:DIVISION OF HUMAN RESOURCES

OPERATIONS MANUAL:ADMINISTRATION

SUPERSEDES: ADM-11.38 (March 1, 2008); (July 1, 2004)

RELEVANT SCDC FORMS/SUPPLIES: NONE

ACA/CAC STANDARDS:4-ACRS-7E-07, 4-4048

STATE/FEDERAL STATUTES:PUBLIC SAFETY OFFICERS' BENEFITS ACT OF 1976.

THE LANGUAGE USED IN THIS POLICY/PROCEDURE DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS POLICY/PROCEDURE DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS POLICY/PROCEDURE, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

PURPOSE: To provide dignified and considerate assistance to appropriate family members of South Carolina Department of Corrections' employees who die or experience a catastrophic injury. To ensure that employees and other persons (who are not inmates) in the control of the South Carolina Department of Corrections who may die or experience a catastrophic injury as a direct and proximate result of a personal injury sustained in the line of duty will be protected under the provisions set forth in the Public Safety Officers' Benefits Act of 1976.

POLICY STATEMENT: The death of an SCDC employee, whether occurring in the line of duty or off duty, is a tragic event. It is extremely important that SCDC staff demonstrate sympathy for surviving family members and be sensitive to the needs of the family by processing claims for benefits as quickly as possible. When an SCDC employee dies while on the job, the Agency will provide dignified, considerate, and humane notification to family members. The Agency will assist with any notification to expedite benefits

that may be paid to a designated beneficiary. Each employee of the Agency and volunteers, students, consultants, and other persons in the service of the SCDC, is authorized, in times of emergency or under the supervision of the appropriate correctional staff, to ensure the enforcement of Agency regulations and state and federal criminal laws. As such, all Agency employees will be eligible to apply for benefits under the provisions of the Public Safety Officers' Benefits Act of 1976. In the event of the death or catastrophic injury of an eligible employee, the Agency will ensure that the employee or his/her survivor(s) is informed of the Public Safety Officers' Benefits Act and will assist in filing a claim relating to the same. The U.S. Department of Justice will be responsible for making the final determination as to whether a benefit should be paid under this Act and to whom it will be paid.

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SPECIFIC PROCEDURES:

1. NOTIFICATIONS:

1.1 Employees Who Die While Off Duty: When an employee dies and notification of the death is received by the Agency, the employee who received the information about the death will notify the immediate supervisor. The immediate supervisor will notify the appropriate Warden or Division Director, who will then notify the Division Director of Human Resources or designee, the Chief, Pastoral Care Services Branch, the appropriate member of the Director's staff, and the Agency Director.

1.2 Employees Who Die or Are Seriously Injured While On Duty: Notifications to Agency management will be made as outlined in Section 1.1, above. Additionally, the employee's Warden, Division Director, or appropriate member of the Director's staff will notify the Division Director of Occupational Safety and Workers' Compensation or designee who will notify OSHA and other appropriate personnel.

1.3 Notification of Family Members/Designated Emergency Contact: The Division Director of Human Resources or designee will provide the name and address of the designated emergency contact for the deceased employee to the appropriate member of the Director's staff.

1.3.1 The appropriate member of the Director's staff will coordinate with the Warden or Division and the Chief, Pastoral Care Services Branch, or designees to develop a plan to notify the employee's designated emergency contact and/or other family members.

1.3.2 Circumstances will vary from situation to situation; but in most cases, the Warden or Division Director, the immediate supervisor, and a representative from the Pastoral Care Services Branch or an institutional chaplain will visit the designated emergency contact and/or other family members to notify them of the serious injury or death. This notification should not be made by phone, but as soon as possible so that the family/designated emergency contact does not learn of the injury or death through other sources. In the case of out-of-state or distant designated emergency contact/family members, the Warden or Division Director will notify local law enforcement and request assistance with notification or, if the designated emergency contact/family members are located near another SCDC institution/facility, may request that a team be sent from that institution/facility. When possible, the Warden or Division Director will attempt to work with close friends/co-workers who can provide information about the designated emergency contact/family member (i.e., medical conditions, elderly, etc.). The team will notify the designated emergency contact/family members of the serious injury or death and provide information about the circumstances. Factual information that has been verified should be provided to the designated emergency contact/family members; however, this release of details should be handled with compassion and dignity. Any information which is provided should be approved prior to the team's departure by the appropriate member of the Director's staff. In the case of a serious injury, arrangements should be made to assist the designated emergency contact/family members with transportation to the hospital where the employee has been taken, if the family desires such help. In the case of a death, the designated emergency contact/family members should be notified of the location of the employee's remains. If appropriate, the team should assist the designated emergency contact/family members with additional notifications to other family members, clergy, etc. Rumors and speculations should not be included as part of the information provided to the designated emergency contact/family member during this initial contact.

1.4 Notification of Correctional Peace Officer's Foundation (CPOF): For immediate assistance to the family, the CPOF may be contacted at 1-800-800-2763. 2. HUMAN RESOURCES RESPONSIBILITIES:

2.1 The Division Director of Human Resources or designee will:

2.1.1 Notify the Public Employee Benefit Authority (PEBA), Payroll and Attendance Branch, Division of Human Resources (to have any payroll check revalidated), and provide assistance with other benefits upon request; (NOTE: The deceased employee's court appointed representative or beneficiary should receive a copy of all appropriate correspondence.)

2.1.2 File Death Claims on behalf of employee if eligible for state group benefits, i.e., basic life, optional life; and

2.1.3 Mail final paycheck(s) certified return receipt to the personal representative appointed by the Probate Court of the deceased employee's county of residence.

2.2 If appropriate, upon the death or catastrophic injury of an eligible employee, the Division Director of Human Resources/designee will be responsible for contacting the survivor(s) of the employee or the employee to assist in filing a claim under the Public Safety Officers' Benefits Act directly with the U.S. Department of Justice. The U.S. Department of Justice is responsible for making the final determination as to whether a benefit should be paid under this Act and to whom it will be paid.

3. PUBLIC SAFETY OFFICER BENEFITS:

3.1 The Division Director of Human Resources or designee will initiate a Public Safety Officers' Benefits claim by telephoning the Bureau of Justice Assistance at (202) 307-0635 or toll free 1-888-744-6513. The following information will be necessary to file a claim:

- Deceased's full name;
- Deceased's occupation;
- Date of injury and/or date of death;
- City and state where death/disability occurred;
- Cause of death/disability and brief description of circumstances;
- Name and address of spouse, if applicable;
- Names and ages of children and/or step-children, if applicable;
- Name, address, and telephone number of the person to contact in the Division of Human Resources who will be assisting with the claim; and
- If the deceased employee was single and without children, the names of the parent(s) or immediate family member.

3.2 After this initial telephonic contact, the Bureau of Justice Assistance should provide information on the additional requirements/documentation required to file a claim under the Public Safety Officers' Benefits Act. The following are examples of information which may be required:

3.2.1 Investigation report and detailed statement of circumstances surrounding the death. The report must be on Agency letterhead, bear an original signature, and be notarized.

3.2.2 If death was caused by an obvious traumatic injury, an affidavit to that effect must be provided by the attending physician. If there is no obvious traumatic injury, a complete autopsy report bearing original signatures which has been notarized must be provided.

3.2.3 Toxicology report bearing original signature and notarization.

3.2.4 Original copy of death certificate.

3.2.5 Deceased's official position description, bearing the original signature of the Division Director of Human Resources and notarization.

3.2.6 Deceased's marriage certificate, if applicable (original copy).

3.2.7 Deceased's divorce decree, if applicable (original copy).

3.2.8 Long form birth certificates of all surviving children, if applicable.

3.2.9 If the deceased is survived by a child born posthumously, indicate expected delivery date and provide a certified copy of the birth certificate when the child is born.

3.3 The South Carolina Department of Corrections has been advised that the U.S. Department of Justice will pay a benefit to survivors of eligible employees as follows: (NOTE: On October 1 of each fiscal year beginning with June 1, 1988, the U.S. Department of Justice will adjust the level of the benefit payable immediately before October 1 to reflect the annual percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, occurring in the one (1) year period ending on June 1 immediately preceding such October 1.) (4-ACRS-7E-07, 4-4048)

3.3.1 If there is no surviving child of the deceased employee, to the surviving spouse of the employee.

3.3.2 If there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such employee in equal shares and one-half to the surviving spouse.

3.3.3 If there is no surviving spouse, to the child or children of the deceased employee in equal shares.

3.3.4 If none of the above applies, to the parent or parents of the deceased employee in equal shares.

3.4 Benefits for Permanent and Total Disability:

3.4.1 In any case where the U.S. Department of Justice determines that an eligible employee has become permanently and totally disabled as the direct result of a catastrophic injury sustained in the line of duty, the Department of Justice will pay, to the extent that appropriations are provided, the same benefits as provided for the death of an employee in Section 3.3-3.3.4, above. (4-ACRS-7E-07, 4-4048)

3.4.2 These benefits will be paid provided that:

- The total annual benefits paid do not exceed \$5 million; and
- These benefit payments are subject to the availability of appropriations, and each designated emergency contact's payment will be reduced by a proportionate share to the extent that sufficient funds are not appropriated.

3.5 Ineligibility for Benefits: No benefit will be paid under the Public Safety Officers' Benefits Act in the following instances:

3.5.1 If the death or catastrophic injury of the employee was caused by his/her intentional misconduct or by the employee's intention to bring about his/her death or catastrophic injury;

3.5.2 If the employee was voluntarily intoxicated at the time of his/her death or catastrophic injury;

3.5.3 To any person who would otherwise be entitled to a benefit under this subchapter if such person's actions were a substantial contributing factor to the death or catastrophic injury of the employee;

3.5.4 If the public safety officer was performing his/her duties in a grossly negligent manner at the time of his/her death; or

3.5.5 To any individual employed in a capacity other than a civilian capacity.

3.6 Reduction of Benefits: The benefit payable under the Public Safety Officers' Benefits Act will be in addition to any other benefit due from any other source, but will be reduced by:

3.6.1 Any benefits authorized by section 8191 of Title 5 of U.S.C.A. (NOTE: Such beneficiaries will only receive benefits under such Section 8191 that are in excess of the benefits received under this subchapter); and

3.6.2 Any payments authorized by section 12(k) of the Public Safety Officers' Benefits Act of September 1, 1976, as amended (D.C. Code, Sec. 4-622).

3.7 Interim Benefit Payment: When the U.S. Department of Justice determines upon a showing of need and prior to final action that a benefit will probably be paid, an interim benefit payment not exceeding \$3,000 may be made to the eligible survivor(s). This amount will be deducted from the final payment. The U.S. Department of Justice may require repayment if no final benefit is awarded.

3.8 Inapplicability of Execution/Attachment/Federal Income Tax: The Public Safety Officers' Benefits Act assures that the benefit payment will not be subject to execution, attachment, or federal income tax.

4. DEFINITIONS:

Catastrophic Injury, as per the Public Safety Officers' Benefits Act, refers to any consequences of an injury that permanently prevents an individual from performing any gainful work.

Child, as per the Public Safety Officers' Benefits Act, refers to any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased employee who at the time of the employee's death is eighteen (18) years of age or under; over eighteen (18) years of age and a student as defined in section 8101 of Title 5, U.S.C.A.; or over eighteen (18) years of age and incapable of self-support because of a physical or mental disability.

Intoxication, as per the Public Safety Officers' Benefits Act, refers to a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body.

Eligible Employee refers to any employee of the Agency, and also includes but is not limited to, interns, volunteers, students, consultants, and other persons in the service of the SCDC who dies or who is permanently and totally disabled as the direct and proximate result of a personal injury sustained in the line of duty.

SIGNATURE ON FILE

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s/Bryan P. Stirling, Director

ORIGINAL SIGNED COPY MAINTAINED IN THE OFFICE OF POLICY DEVELOPMENT.