



Disability Leave Policy

Purpose

The purpose of the Disability Leave Policy is to inform employees of their rights to disability leave for qualifying conditions and any restrictions on the use of disability leave and to prescribe the basic procedures employees must use when requesting disability leave benefits.

Authority

- a. O.R.C. § 124.385
- b. Ohio Admin. Code 123: 1-33

Reference

- a. ODA FMLA Policy
- b. ODA Leave Without Pay Policy
- c. ODA Leave Donation Policy
- d. OCSEA Disability Benefits Article 35

Scope

This Policy applies to all permanent ODA employees, unless conflicting provisions exist within the collective bargaining agreement applicable to bargaining unit employees, in which case the provisions of the collective bargaining agreement control.

Procedures

Eligibility for Disability Benefits

ODA employees are eligible for disability benefits if:

- a. The employee remains unable to perform his or her job for more than fourteen (14) calendar days because of a disabling condition; and
- b. The employee has completed one (1) year of continuous state service immediately prior to the date of the disability; and
- c. The employee is one of the following:
 - i. A full-time permanent employee eligible for sick leave credit;
 - ii. A part-time permanent employee who has worked at least fifteen hundred (1500) hours within the twelve-month period immediately preceding the date of disability and is eligible for sick leave credit; or
 - iii. A full-time permanent or part-time permanent employee on disability leave or leave of absence for medical reasons and would be eligible for sick leave credit except that the employee is in no pay status due to the employee's medical condition.

Compensation for Disability Leave Benefits



- a. Compensation for disability leave benefits shall be payable at sixty-seven percent (67%) of the employees base rate of pay up to a lifetime maximum of twelve (12) months.

Length of Eligibility

- a. Disability leave benefits shall remain payable until it is determined that the employee is no longer disabled, until the effective date of retirement from a state employees' retirement system, or the employee has utilized a lifetime maximum of twelve (12) months of paid disability leave.
- b. The length of eligibility for claims filed before October 29, 2006 is governed by Ohio Admin. Code 123:1-33-12 or March 1, 2006 per the OCSEA Collective Bargaining Agreement.
- c. All disability leave benefits that were granted for claims filed on or after October 29, 2006 shall be counted toward the lifetime maximum limitation of twelve (12) months of paid disability leave.

Filing a Claim

- a. An application for disability leave benefits and employee statement form is to be submitted by the employee or a representative or member of the employee's family to the Human Resources section. The request must be submitted within twenty (20) days following the last day the employee worked. A physician statement form must accompany the application and the form must indicate the nature and reason of the employee's disability.
- b. The form must be completed in its entirety and may be disapproved by the Human Resources department based upon the type of disability or an incomplete application. As a general practice, ODA will send the claim to the DAS Disability Unit for a determination. The Human Resources Director will complete the information necessary and forward all completed forms to the DAS Disability Unit.
- c. The employee is obligated to consult a state-licensed practitioner to receive necessary medical care prior to receiving disability benefits. In the case of an alcohol or drug addiction diagnoses, an employee shall consult the state's alcohol or other drug addiction program, the state of Ohio employee assistance program, or another certified alcohol and other drug addiction treatment professional to confirm that the employee's condition prevents the employee from performing the duties of the employee's position, a similar position, or other duties within a transitional work program. In the case of a mental health diagnoses, an employee shall consult with a licensed mental health provider to confirm that the employee's condition prevents the employee from performing the duties of the employee's position, a similar position, or other duties within a transitional work program. In all cases, an employee is obligated to follow prescribed treatment for the disabling condition to receive disability benefits.
- d. Given proper notice and under appropriate circumstances, an employee's receipt of disability leave benefits may be credited against an employee's FMLA leave entitlement.

Benefit Periods

- a. Disability leave benefits will commence on the first day following the fourteen (14) day waiting period. Disability leave benefits will remain in effect until the employee is no longer disabled, the effective date of retirement from a state employees' retirement, system, the employee has received a lifetime maximum of twelve (12) months of disability leave, or until the employee is otherwise disqualified. An employee returning to work following a disability leave may be



- required to obtain a physician's written statement or determination that the employee is permitted to return to work.
- b. In cases where an employee will remain off work for a period of time which exceeds the physician's original estimated return to work date, a supplemental report for disability leave benefits must be submitted indicating when the employee may return to work and why the disability is longer than initially expected.
 - c. Following the payment of disability leave benefits to an employee, a subsequent disability unrelated to a previous illness, injury, or condition shall be considered the same claim if it occurs while an employee is on an approved disability leave.
 - d. A subsequent unrelated disability that occurs following a previously requested disability leave benefit period shall be considered a new claim. A new waiting period must be served before the employee will be eligible to receive disability leave benefits.
 - e. A subsequent related disability that occurs within six (6) months of an employee's return to active work status and following a previously requested disability leave benefit that was filed on or after October 29, 2006 will be considered the same disability claim, as will a subsequent related disability that occurs while the employee is participating in an authorized work program. Benefits may be payable from the first day of the subsequent disability if the employee remains disabled and off work for at least fourteen (14) consecutive calendar days.
 - f. A related disability that occurs beyond six (6) months of the employee's return to active work status will be considered a new disability claim. A new waiting period must be served before the employee will be eligible to receive disability leave benefits.

Payment of Disability Leave Benefits

- a. Disability leave benefits are paid bi-weekly based on a pay period of fourteen (14) days. Disability leave benefits for any partial pay period remaining at the expiration of any period of disability accrue on an hourly basis at a rate of eight (8) hours for each work day, and are payable at the expiration of the period of disability.
- b. Employees receiving disability leave benefits shall continue to accrue service credit for purposes of determination of vacation leave accrual and longevity. However, vacation leave, sick leave, and personal leave benefits shall not accrue while an employee is receiving disability leave benefits. When an employee returns to a pay status, the sick leave the employee should have earned during the time they were on disability leave will be credited.
- c. Employees desiring to supplement their disability leave benefits with sick leave credit, compensatory time, personal leave credit and vacation time, shall in writing, notify the Human Resources Director at the time the claim is filed or after the employee begins to receive disability leave benefits. Any request for supplementation filed after the date an employee began to receive disability leave benefits shall be given an effective date as of the date the request was filed.
- d. The total amount received by an employee while receiving disability leave benefits supplemented by sick leave credit, compensatory time, personal leave credit and vacation leave balances shall be an amount sufficient to give the employee up to one hundred percent (100%) of pay. The total amount received shall not exceed the gross pay an employee would have received in an eighty (80) hour pay period. The computation of gross pay shall include the employee's share of retirement benefits paid to PERS after receiving three (3) months of disability benefits.



- e. Payments of the employee's share of insurance premiums during the periods in which the employee is receiving disability leave benefits shall be paid by the employer.
- f. Disability leave benefits are not payable for any disability caused by or resulting from:
 - i. Attempted suicide, or self-inflicted injury with the intent to do bodily harm unless there is a medical history of treatment for a psychiatric illness in which case the director reserves the right to review the claim for consideration of a benefit award; or
 - ii. Any act of war, declared or undeclared, whether or not the employee is in the armed forces; except in the case of an employee who is a veteran of the United States armed forces, disability benefits will not be denied because the employee contracted the illness or received the injury in the course of or as a result of military service and the illness or injury is or may be covered by a compensation plan administered by the United States department of veterans' affairs; or
 - iii. Participating in a riot or insurrection;
 - iv. Drug addiction or alcoholism; however, alcohol or other drug addiction diagnoses may only be covered if the employee is receiving ongoing treatment pursuant to paragraph (D) of rule 123:1-33-01 of the Administrative Code and it is determined that such treatment program prevents the employee from working as documented by the treatment provider; or
 - v. Any injury incurred in the act of committing a felony;
- g. Any employee receiving disability leave benefits will be subject to disqualification if the employee:
 - i. Is removed from state service or certified against;
 - ii. Is not in active pay status and is receiving retirement or disability from a state employee retirement system;
 - iii. Engages in any occupation for wage or profit except while in a rehabilitation program;
 - iv. Engages in any act of fraud or misrepresentation involving his disability claim;
 - v. Does not consult a state licensed practitioner for necessary medical care;
 - vi. Does not follow the prescribed treatment for the disabling condition;
 - vii. Does not notify his appointing authority of a change of address; and/or
 - viii. Is convicted of the commission of a felony.

Appeals

If an employee's request for disability leave benefits or the payment of a claim is denied, the employee may file an appeal under the guidelines set forth by the Department of Administrative Services.

Work-Related Injuries or Illnesses

Employees becoming disabled due to a work-related injury or illness will not be advanced disability benefits unless the employee has received a denial order from the Bureau of Workers' Compensation (BWC). Within twenty (20) days of the BWC order denying benefits, the employee may submit a copy of the denial notification with an application for disability leave benefits.

The employee must also indicate whether he or she is appealing the BWC denial. If the employee is appealing the BWC decision, disability leave benefits may be paid as an advancement of the workers' compensation claim. If the employee is not appealing, the claim will be processed as a disability claim.



Discipline While Receiving Disability Benefits

- a. An employee receiving disability leave benefits may be disciplined pursuant to the provisions of O.R.C. § 124.34, ODA's Disciplinary Policy, or the applicable collective bargaining agreement. If ODA conducts a pre-disciplinary investigatory interview that requires the participation of the employee, the employee may be granted administrative leave with pay for the duration of the interview. The employee shall not receive payment of disability leave benefits for those hours spent on administrative leave with pay, nor shall the hours count towards the employee's lifetime maximum benefit.
- b. If an employee is removed from service, disability leave benefits shall be discontinued as of the date the employee is removed from service. ODA shall notify the Director of the Department of Administrative Services that the employee removed from service was receiving disability benefits.

Contact

The Human Resources Director is available for questions or consultation regarding the provisions of this Policy.

Revision History

Date	Description of Change
3/2004	Initial Policy Issued
8/2012	Revisions to Policy Issued
10/2012	Revisions to Policy Issued
8/2014	Policy Reviewed
7/2015	Policy Reviewed

