

## ***Section B - Benefits***

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## Use of Leave

Whether due to sickness, vacation, personal or compensatory time, is a limited right granted by the State of Ohio and therefore, must be used properly. **Each employee is responsible for knowing their leave balances.**

All leave requests must be submitted by the employee on the request for Leave form and approved by the supervisor. See specific leave sections on how to take personal, sick, vacation, compensatory time or leave without pay. All leave requests must be approved by management in order to be properly processed for payroll. All employees are to complete and submit a leave form to their supervisor within 24 hours after returning to work.

All pre-planned absences, such as vacations or extended leaves, require completion of a leave form prior to the usage of the time. All leave forms for a given pay period must be submitted with the time sheets when delivered to the payroll office. Failure to timely submit leave forms shall result in leave without pay for the employee. Such amount may then be credited in the next pay check after the completed forms are submitted to Payroll.

1. **Employing Unit** – Please indicate the Division in which you work in addition to the Department.
2. **Checking Appropriate Leave Box** - When checking the appropriate leave box on the form for the type of leave requested, you must indicate the number of hours next to the appropriate type of leave. This will assist in the proper crediting of leave used and prevent unnecessary confusion in payroll processing.
3. **Bereavement Leave** – The form has a space provided for the Name of the Deceased and the Relationship and Date. Please provide this information when requesting Bereavement Leave. Copy of obituary may be requested.
4. **OCSEA/AFSCME Bargaining Units and Other Units Per Agency Policy** – This section requires the employee to check one of the boxes if the employee has insufficient sick leave and is requesting other types of leave in lieu of sick leave. All employees will be required to check the appropriate block when the employee has an insufficient sick leave balance to satisfy the request. **(THIS INCLUDES EXEMPT EMPLOYEES.)**
5. **Total Hours** – The employee shall indicate the total hours of his/her leave request in the bottom right hand corner.

**Leave time cannot be used to extend an employee's separation date.**

**Failure to properly complete the Request for Leave form as outlined in Items 1 – 5 could result in disciplinary action.**

### **Bereavement Leave**

Three (3) consecutive days of bereavement leave with pay at rate will be granted to an employee upon the death of a member of his/her immediate family, defined as: spouse or significant other (defined to mean one who stands in place of a spouse and who resides with the employee), child, step-child, grandchild, parent, step-parent, grandparent, great-grandparent, brother, sister, step-sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law or legal guardian or other person who stands in the place of a parent. Bereavement leave will be granted in the case of a stillbirth conditioned upon the tendering of a death certificate.

The Employer may grant vacation, sick leave or personal leave to extend the bereavement leave. The leave and the extension may be subject to verification. Part-time employees shall receive bereavement leave with pay for the hours that they are normally scheduled to work.

Employees are required to immediately notify his/her supervisor of impending bereavement leave. Such leave requests shall be documented on request for leave form. Verification, if requested, should be attached to the leave request form (i.e. copy of obituary).

**Compensatory Time**

***FOR OVERTIME EXEMPT EMPLOYEES***

**I. Policy Overview**

This policy sets forth the requirements for approval, accrual and use of compensatory time (comp time) as it applies to agency employees who are both exempt from a bargaining unit and also overtime exempt, in accordance with provisions of the Fair Labor Standards Act.

**II Policy**

**A. Accrual**

1. Compensatory time is accrued on a straight time hour for hour basis.
2. The Director or Assistant Director may grant compensation time for hours in excess of forty hours in active pay status per week, when such extra work hours are necessary for the operation of the division.
  - a. Requests to work comp time must be approved in advance. The Director or Assistant Director may delegate authority for approval to work comp time. Authority to grant approval may only be delegated to management personnel. No employee may authorize his/her own comp time.
  - b. Comp time may only be accrued and used in half-hour intervals.
  - c. An employee's total accrual may not exceed 80 hours and must be used within 180 days.

**B. Reporting**

1. Comp time accrual is recorded directly on the ODA Record of Comp Time Earned Form.
2. Use of comp time must be approved in advance, and is requested by means of a Request for Leave form.
3. Official comp time balances will be maintained in the on-line pay files and will be reflected on the employee's bi-weekly pay statement.

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4. Comp time in excess of 80 hours will not be recorded. Comp time which has not been used within 180 days of the date earned will be deleted from the employee's balance.

## C. Transfer/Separation/Change of Status

1. Transfer of compensatory time from one agency to another is not permitted. Therefore, any compensatory time the employee had earned at his/her former agency of employment will be eliminated from an employee's balance.
2. Cash payment for comp time balances is not allowed under any circumstances.
3. At the time of separation, an available comp time balance may not be converted for payment and may not be carried forward at the time of re-employment.
4. Use of comp time may not be used to extend the date of separation.
5. When an employee's status is changed from overtime eligible to overtime exempt, any existing comp time balance earned while overtime eligible will automatically be paid to the employee at the time of the status change.

## II. Notice to Employees

Each employee who is designated as overtime exempt in accordance with the provisions of the Fair Labor Standards Act will be notified by memo of that designation and will be provided with a copy of these compensatory time policies.

*MEMO: In accordance with provisions of the Fair Labor Standards Act and based on the duties of your position, you have been designated as an overtime exempt employee. As a result of this designation, you are not eligible to receive overtime pay for time worked in excess of 40 hours per week. You are, however, entitled to compensatory time, on an hour for hour basis, for hours worked in excess of forty active pay status hours per week with advance approval of the Assistant Director or Director responsible for your division/section.*

## III. Enforcement

Each division Assistant Director or Director is responsible to ensure that all aspects of the policy are enforced within their respective division.

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## **Compensatory/Overtime**

All Compensatory Time and Overtime must have prior approval of the Assistant Director.

Compensatory Time and Overtime may be authorized in emergency or critical situations or in in-plant paid Overtime operations by the respective divisions chief. Compensatory Time is recommended above Overtime.

An employee entitled to Overtime Compensation shall be entitled to Compensation for such time over forty hours per week at one and one-half times his regular rate of pay. An employee may elect to take Compensatory Time off in lieu of Overtime pay on a time and one-half basis.

### **BARGAINING UNIT EMPLOYEES**

Bargaining Unit Employees shall be paid for Compensatory Time/Overtime earned in accordance with the Collective Bargaining Agreement and Fair Labor Standards Act.

### **ALL EMPLOYEES**

Record of Compensatory Time/Overtime earned shall include a listing of total hours worked, dates, times and brief description of work performed.

Recording of Compensatory Time shall be made on an approved form (copy attached) or on a divisional form approved by the Division Chief. Example: AUI form – Meat Inspection.

Recording of Overtime will be made on appropriate time sheets and turned in to Fiscal. Verified explanation of Overtime must accompany time sheets.

Requests for Compensatory Time use will be made on the Request for Leave form.

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## **Personal Time**

All employee requests for personal leave shall be made at least one (1) day in advance unless such leave is for an emergency and then such request must be made as soon as possible. Documentation for emergency personal leave may be required prior to approval.

Leave shall be charged in minimum units of one tenth (1/10) hour.

Leave forms must be submitted to the supervisor prior to the first day of leave or immediately upon return to work.

Personal Leave is not available for use until it appears on the employee's earnings statement and on the date the funds are made available.

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## Sick Leave

Each employee in active pay status is eligible to receive sick leave accrual. Sick leave may be used for doctor or dental appointments for the employee or a member of the employee's immediate family, illness of the employee or a member of the employee's immediate family or death of a member of the employee's immediate family. An employee must notify his/her immediate supervisor whenever he/she will be using sick leave or other leave in lieu of sick leave.

The employee must request sick leave on an approved leave form and submit prior to the leave where appropriate (e.g., appointments) or upon return to work after the leave where circumstances prevent submission prior to the leave.

Sick leave is not available for use until it appears on the employee's earnings statement and on the date the funds are made available.

<u>Hours Used</u>	<u>Percent of Regular Rate</u>
1-40 sick leave	100%
40.1 plus sick leave*	70%

\*Any sick leave utilized in excess of eighty (80) hours in any usage period shall be paid at one hundred percent (100%).

- Sick leave accrual is 3.1 hours for each 80 hours of active pay status (excluding overtime pay), not to exceed 80 hours in a one-year period.
- Sick leave must be used in increments of one-tenth hour.
- An employee who has used all of his/her sick leave, may choose to use vacation, personal or compensatory time in lieu of sick leave or may request leave without pay.
- Upon separation, employees with at least five years of state service with the State of Ohio shall convert to cash any sick leave accrued at 55% at the time of separation.
- Sick Leave may not be used to extend a separation date.

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## Carry-Over and Conversion of Sick Leave

In the pay period including December 1, employees will be offered the opportunity to convert to cash any part of his/her accrued sick leave. The cash conversion of the sick leave accrued and not used for each usage period shall be at the following rates:

Hours	Percent
80	75%
72 – 79.9	70%
64 – 71.9	65%
56 – 63.9	60%
48 – 55.9	55%
47.9 and less	50%

An employee not exercising a choice will automatically have the hours carried forward.

### PHYSICIAN'S VERIFICATION:

- This Ohio Department of Agriculture will require a physician's verification for those employees who fall below 16 hours of accrued sick leave.  
*Exceptions: employees who file physician's certification under FMLA, Disability and/or Worker's Compensation; and new employees or those returning from a condition on file as mentioned above, whose start/return date has not allowed for sufficient time to accrue above the sixteen hours (8 pay periods).*
- A supervisor may require a physician's verification for an employee who has been absent from work for three consecutive calendar days and/or if pattern abuse is suspected. Sick leave requested will only be approved if the physician's verification is provided within three days after returning to work.

**Failure to provide a physician verification when required or providing a fraudulent physician verification will result in disciplinary action.**

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## **LEAVE WITHOUT PAY**

The Department has discretion in determining who obtains authorized leave without pay in each individual situation.

Requests must be made on approved Request for Leave forms and submitted to your immediate supervisor(s). Final approval is required from the Director.

All leave without pay requests will be approved in advance, when possible, by the Director.

Any employee taking unauthorized leave without pay will be subject to disciplinary action as outlined in the ODA Disciplinary Grid.

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## **MILITARY LEAVE**

All employees who are members of the Ohio National Guard or any Reserve Component of the U.S. Armed forces shall be provided leave when called to active duty.

The employee shall submit to the Division Chief an order or statement from the appropriate military commander, along with a Request for Leave form.

The maximum number of hours for which payment for active military duty leave will be made is 176 hours in one calendar year.

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## **Vacation Leave**

After completion of one year of service, employees in active pay status receive vacation leave. The amount of accrual is determined by the number of years of service and is allowed only up to the maximum. Any accrual over the maximum will not be credited to the vacation leave balance.

Vacation leave shall be taken only at times mutually agreed to by the Agency and the employee. Every effort will be made to grant vacation time at the request of the employee, if such request does not produce a hardship on other employees or the Agency.

Requests for vacation leave shall be requested twenty four (24) hours in advance of the first requested day of leave.

Vacation shall be used in one-tenth hour increments.

## **Accrual and Maximum**

Length of Service (In Years)	Bi-Weekly Accrual (In Hours)	Annual Accrual (In Hours)	Maximum Accrual (In Hours)
1-4	3.1	80	240 (6 wks)
5-9	4.6	120	360 (9 wks)
10-14	6.2	160	480 (12 wks)
15-19	6.9	180	540 (13-½ wks)
20-24	7.7	200	600 (15 wks)
25 +	9.2	240	720 (18 wks)

### **Childbirth/Adoption Leave**

Parental leave is intended to provide an opportunity for State employees to take up to a maximum of six (6) weeks of continuous leave to provide parental care immediately following the birth or adoption of a minor child.

#### **Eligibility**

All permanent employees who work an average of thirty or more hours per week are eligible for Adoption/Childbirth leave.

Eligibility for taking Adoption/Childbirth leave shall begin on the date of the birth of an employee's biological child or the placement of an adopted child into the employee's custody. In case of adoption, the employee must be the legal guardian of and reside in the same household with the newly adopted child to be eligible. Employees who desire to use such leave are encouraged to apply in writing within two (2) working days following the birth or adoption of a child. Such application shall be made using the standard Request for Leave form (ADM 4258).

#### **Leave and Benefit Amount**

To qualify for Adoption/Childbirth leave, an employee must complete a 14-day waiting period, which commences on the date of the birth of an employee's child or the placement of an adopted child into the employee's custody. An employee may work at the discretion of the employee's appointing authority and/or may take unpaid leave, or may use any form of accrued paid leave or compensatory time for which he/she is qualified, or any combination thereof, during the 14-day waiting period. The 14-day waiting period under this section shall satisfy the waiting period for disability leave benefits for employees who qualify for additional leave due to disability, provided the employee does not work during the two week waiting period. The remaining four weeks shall be paid at 70% of the employee's regular rate of pay. Bargaining unit employees may elect pay in lieu of Adoption/Childbirth leave under Article 30.08A of the OCSEA Collective Bargaining Agreement.

The average regular hours worked or scheduled to work (including holidays and use of paid leave) over the preceding three-month period shall be used to determine eligibility and benefits under this section for part-time employees, provided that such benefits shall not exceed forty (40) hours per week.

#### **Holidays**

Employees shall not be eligible to receive Holiday Pay while on Adoption/Childbirth leave. Holidays shall not be counted as one day of Adoption/Childbirth leave, except that during the waiting period if an employee works the day before a holiday the employee will be eligible to receive Holiday Pay as normal. Employees who work during a holiday shall be entitled to pay as

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provided pursuant to the appropriate Collective Bargaining Agreement, law or Administrative Rule.

## **Use of Other Leave**

Employees may utilize sick, vacation, personal leaves and/or compensatory time to receive pay during the 14-day waiting period and to supplement the 70% wages for the remaining four weeks or any portion thereof. Employees may supplement their wages up to a combined total 100% of their regular bi-weekly rate of pay.

Employees using Adoption/Childbirth leave who meet the eligibility requirements of the Family and Medical Leave Act (FMLA) (i.e. twelve months of state service, and 1,250 hours in state service active pay status during the twelve months immediately before the birth or adoption) shall have the entire non-working period of Adoption/Childbirth leave counted toward the employee's 12-week FMLA entitlement.

## **Duration**

Under no circumstances shall Adoption/Childbirth leave be taken beyond six weeks from the date of birth or placement of a child for adoption. Adoption/Childbirth leave shall not be used to extend the layoff date of employees or to extend a period of employment for Established Term regular or irregular employees.

## **Overtime**

No portion of Adoption/Childbirth leave is to be included in calculating overtime.

## **Coordination with Disability Leave**

Employees who are receiving disability leave benefits prior to becoming eligible for Adoption/Childbirth leave shall continue to receive disability leave benefits for the duration of the disabling condition or as otherwise provided under the disability leave benefits program. In the event that an employee is receiving leave benefits for a pregnancy and such benefits terminate prior to the expiration of any benefits the employee would have been entitled to under Adoption/Childbirth leave, the employee will receive Adoption/Childbirth leave for such additional time without being required to serve an additional waiting period.

## **Disability Leave**

Any full-time permanent employee who has completed one year of continuous service and who becomes physically or mentally incapable of performing the duties of his/her position due to illness, injury or pregnancy shall be eligible for disability leave benefits. Please refer to your contract for further information. Exempt part-time permanent employees are not eligible for disability leave benefits.

[Disability leave benefit claim forms](#) (ADM 4310) are available in the Human Resources Office. The form must be submitted no later than 20 days following the employee's last day worked. The physician's statement must indicate the nature and reason for the disability.

## **EXTENSION AND REINSTATEMENT OF DISABILITY LEAVE BENEFITS**

In cases where an employee is going to remain off work for a period of time which exceeds the physician's estimated return-to-work date, the employee must submit a [supplemental form](#) (ADM 4311) indicating when the employee may return to work and why the disability is longer than initially expected.

Following the payment of disability leave benefits to an employee, successive periods of disability leave benefits separated by less than six months of full-time work will be considered one disability claim as long as the disabling condition is related to the previous disability claim. The employee must serve a new waiting period on subsequent disability leave claims that are unrelated to the cause or causes of previous disability claims and are separated by at least one day of work.

## **INELIGIBILITY OF DISABILITY LEAVE BENEFITS**

Disability leave benefits are not payable for any disability caused by or resulting from:

- Attempted suicide or self-inflicted injury;
- Any act of war, declared or undeclared, whether or not the employee is in the armed services;
- Riding or driving in any race or speed contest, or testing any vehicle used in a race or speed contest or participating in any way in the sport of parachute jumping;
- Participating in a riot or insurrection;
- Drug addiction or alcoholism, except for the period of time the employee is in a certified residential treatment facility cooperating with treatment as determined by the primary care provider;
- Any injury incurred in the act of committing a felony.

**APPEAL OF A DENIAL FOR DISABILITY LEAVE BENEFITS**

If a request for disability leave benefits is denied, the employee shall be informed of the denial of the claim by the Director of Administrative Services. The employee may then submit additional information concerning his/her claim or appeal the denial of the claim to the Director of Administrative Services within 30 days of the denial. The appeal shall be in writing to the Director of Administrative Services or his designee.

**DISABILITY SEPARATION**

If an employee becomes physically incapable of performing the duties of his/her position due to illness or injury and he/she is ineligible for disability leave benefits or has exhausted his/her disability leave benefits, he/she may request to be placed in a disability separation status.

A request for disability separation may be granted for up to three years. The request for disability leave separation and a statement from your physician indicating the nature and reason for the employee's disability separation must be submitted for approval to the Appointing Authority. The request must also be approved by the Director of Administrative Services.

**REINSTATEMENT**

A request for reinstatement to the same or similar position following a disability separation may be made within three years. A written request must be submitted to the Appointing Authority. The employee must also take a physical examination by a state-approved physician. The cost of the examination must be paid by the employee. Failure to take an examination will result in the denial of the request to return to work.

**DISABILITY RETIREMENT**

If the employee becomes permanently disabled and is ineligible for disability leave benefits or has exhausted his/her disability leave benefits, he/she may apply for disability retirement benefits through the Public Employees Retirement System (PERS). The employee must have at least five years of contributing service. More information on disability retirement may be obtained in the Human Resources Office or by calling PERS at 466-2085.

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## **Employee Assistance Program (OEAP)**

It is the policy of the State and the Ohio Department of Agriculture to maintain and utilize an Employee Assistance Program.

The program is a service to assist ODA employees and their families, who are facing problems in their lives, to gain access to community resources that can provide help in resolving or coping with their problem. The problem might be depression, stress, health, alcoholism, drug abuse, finances or perhaps legal problems.

The program is strictly confidential and voluntary. It is based solely on employee job performance. Referrals will not be discussed with supervisors, personnel officers or union representatives. The voluntary feature of the program means the decision to participate in the EAP (Employee Assistance Program) is up to the employee. A supervisor may recommend that an employee seek help from the EAP, but the employee is not required to do so.

The EAP is a support and referral service. Depending on the type of problem, an employee is confidentially referred to a service center, agency or self help group within his or her district or community.

An employee or family member may refer themselves through the EAP Coordinator or directly to an agency.

It is also possible for an employee with a problem to be referred to the EAP by a supervisor or union representative. If there is a serious decline in the employee's job performance, supervisors are encouraged to refer the employee to the EAP rather than diagnose or counsel the employee about the problem. Such referrals aren't mandatory and again, the decision to go is up to the employee. If a supervisor makes a referral, the EAP Coordinator and/or service agency tells the supervisor only that the employee did or did not make and/or keep the appointment. No reports are received by supervisors, personnel officers or union representatives, unless the employee has authorized such in writing.

The Office of Human Resources will facilitate training, resource and referral services through EAP.

This program does not affect any disciplinary procedures or policies. It does, however, provide supervisors and employees an alternate resource in assisting with the correction of a problem influencing job performance.

This program is strictly confidential. Any violation of this confidentiality will give cause for disciplinary action.

**Family Medical Leave Act**

**I. Eligibility and Leave Provisions**

Eligible employees of the Ohio Department of Agriculture are afforded up to twelve (12) work weeks of Family and Medical Leave Act (FMLA) for a year due to birth, adoption or foster care placement of a son or daughter, to provide care for a spouse, child or parent with a serious health condition, or due to a serious health condition rendering the employee unable to perform the functions of his/her position. The Family Medical Leave Act of 1993 requires employers to provide eligible employees with twelve (12) work weeks of unpaid leave in particular circumstances. The Act does not afford any additional paid leave for employees. Leave pursuant to this policy is available to eligible employees on or after August 5, 1993.

An eligible employee is entitled to twelve (12) work weeks of FMLA leave during the year. An updated [FMLA form](#) must be submitted every twelve months including those conditions that were specified as on-going, reoccurring, and/or lifelong. ODA has the right to have the condition recertified after 30 days if there are questioning circumstances.

To be eligible for leave, an employee must have been employed by the state for at least twelve (12) months and have worked 1,250 hours during the preceding twelve (12) months. The twelve (12) months necessary to meet the threshold requirement of twelve (12) months or work do not need to be consecutive months. Employees covered by a collective bargaining agreement in effect on August 5, 1993, are eligible for FMLA leave on the earlier of the date the collective bargaining agreement terminates or February 5, 1994.

Leave pursuant to this policy is available to employees regardless of their gender. Leave taken for the birth, adoption or foster care of a son or daughter must be taken within twelve (12) months of the birth or placement. If an employee's spouse is also employed by the Ohio Department of Agriculture, the employee and his/her spouse will divide their entitlement (twelve (12) work weeks of leave) between them for the birth, adoption or foster care placement of a son or daughter. This restriction does not apply for employees requesting FMLA leave due to the serious health condition of the employee's spouse, parent or child.

**II. Responsibilities of Employee**

An employee entitled to leave pursuant to this policy has certain responsibilities to the Ohio Department of Agriculture and the State of Ohio. An employee who wants to request FMLA leave can obtain the necessary forms and information from the Office of Human Resources at (614) 466-4595.

**A. Notice**

The employee must provide thirty (30) days notice prior to taking leave. If thirty (30) days notice is not possible, notice must be given as soon as practicable. If leave is to be taken due to a foreseeable, serious health condition of the employee, the employee must make a reasonable effort to schedule the leave so as to not unduly disrupt the operations of the office.

Employees requesting FMLA leave must use the standard leave form (ADM 4258) and must also complete a “[Certification of Physician or Practitioner](#)” form if the request is being submitted for the caring for a spouse, child, or parent with a serious health condition, or the serious health condition of the employee. (See examples of required forms attached to this policy. Also refer to Section C of the policy.)

**ALL LEAVE REQUESTS MUST BE SUBMITTED TO THE EMPLOYEE’S IMMEDIATE SUPERVISOR.**

**B. Exhaustion of Paid Leave**

For example, a full-time employee with 3 weeks of vacation, 8 days of sick leave and 2 personal days will be required to use the four weeks of paid leave as the initial part of his or her FMLA leave and will be able to take an additional eight weeks of unpaid leave pursuant to this policy. Whether leave is paid, unpaid, or a combination, the employee is entitled to only twelve (12) weeks under FMLA. Sick leave usage requests will be in accordance with ODA sick leave policies and applicable collective bargaining agreements.

The Ohio Department of Agriculture may designate paid leave as FMLA leave, whether the employee designates it as such or not, if the following apply:

- ODA has compelling information based on information provided by the employee that leave was taken for a FMLA qualifying event;
- For sick and disability leave, the employee must have listed a qualifying event on documents required to take such leave;
- For vacation, personal or compensatory leave, the employee must have voluntarily listed a reason on leave requests or, if the employee requests an extension of leave as unpaid FMLA leave and notes a qualifying event which occurred during paid leave, then ODA may apply the appropriate portion of paid leave against the 12-week FMLA entitlement;
- The employee is notified in writing that the leave will be designated as FMLA leave prior to the expiration of the leave.

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An employee wishing to take leave based upon a serious health condition of the employee or the employee's spouse, child, or parent, must provide certification issued by the health care provider stating:

1. The date on which the serious medical condition began;
2. The probable duration of the condition;
3. The appropriate medical facts within the doctor's knowledge regarding the medical condition;
4. That the employee is needed to care for his/her son, daughter, spouse or parent, and an estimate of the time necessary to provide the care, if applicable;
5. That the employee is unable to work safely and substantially perform the essential functions of the employee's position, if the leave is for a serious health condition of the employee;
6. If intermittent leave or a reduced leave schedule is requested for planned medical treatment, the dates on which the treatment is expected to be given and the duration of the treatment;
7. If intermittent leave or a reduced leave schedule is requested due to the employee's serious health condition, that it is medically necessary for the employee to be given that type of leave and the expected duration of the intermittent or reduced leave schedule; and
8. If intermittent leave or a reduced leave schedule is requested to care for a family member, that the leave is necessary for the care of the employee's son, daughter, parent or spouse with a serious health condition or will assist in the family member's recovery, and the expected duration and schedule of the necessary intermittent leave or reduced leave schedule.

A copy of the certification must be provided by the employee in a timely manner, and if practicable, prior to taking the leave. [Certification forms](#) to be completed by the employee and the health care provider can be obtained from the Office of Human Resources.

If the validity of certification provided is in doubt, the Ohio Department of Agriculture may require, at its expense, the employee obtain a second opinion from a second health care provider designated or approved by ODA. If the second opinion differs from the opinion in the original certification provided by the employee, ODA may require, at its expense, that the employee obtain a third opinion from a third health care provider designated or approved by both ODA and the employee. The opinion of the third health provider shall be final and binding on both ODA and the employee.

An employee who has obtained certification may be asked periodically to provide re-certification. Certification obtained for a period of leave will

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cover only that period of leave and a new certification must be obtained if an employee seeks additional leave pursuant to this policy.

## **C. Disability Leave**

Employees requesting disability leave benefits who are also eligible for FMLA leave shall have up to the first twelve weeks of an approved disability leave period, including the required waiting period, count concurrently as FMLA leave. The Ohio Department of Agriculture may also grant FMLA leave to an employee while the employee's disability leave request is being reviewed. The granting of FMLA leave shall have no bearing on the approval or disapproval of an employee's disability leave request.

## **D. Adoption/Childbirth Leave**

Employees requesting Adoption/Childbirth leave benefits who are also eligible for FMLA leave shall have the entire period of Adoption/Childbirth leave, including the required waiting period, count concurrently as FMLA leave. An employee who is not eligible for FMLA leave (e.g. the employee has not worked, i.e. excluding any paid leave time, 1,250 hours during the previous twelve months or has already used his/her twelve weeks of FMLA leave) shall retain his/her right to Adoption/Childbirth leave upon meeting the eligibility requirements.

## **E. Reporting of Intent to Return**

It will be presumed that an employee on leave intends to return to work as indicated by the employee on his/her request for FMLA leave and as authorized by the Appointing Authority. If an employee decides to return to work on a different date, the employee must file a request for additional leave with the Human Resources Administrator as soon as practicable. If an employee decides not to return to work, the employee must notify the Human Resources Administrator as soon as practicable.

## **II. Intermittent Leave and Reduced Leave Schedule**

If an employee wishes to take leave intermittently or by working a reduced schedule, the employee must request intermittent leave or a reduced leave schedule at the time he/she requests leave. Leave taken because of the birth, adoption or foster care placement of a son or daughter can be taken intermittently or on a reduced leave schedule if an acceptable schedule can be agreed upon by the employee and his or her supervisor(s). Leave taken due to an employee's serious health condition may be taken intermittently or on a reduced leave schedule when it is medically necessary. An employee can take FMLA leave to care for his/her spouse, son, daughter, or parent with a serious health condition, intermittently or on a reduced leave schedule if it

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is necessary for the care of the family member or will assist in the family member's recovery.

An employee requesting intermittent leave or a reduced leave schedule for foreseeable planned medical treatment for a serious health condition may be required to transfer temporarily to an available alternative position within ODA. The position would be one for which the employee is qualified, with the equivalent pay and benefits and which can accommodate recurring periods of leave better than the employee's regular position.

## **IV. Continuation of Employee Health Benefits**

Health benefits provided to employees will be maintained during periods of leave as if the employee continued in employment continuously from the time leave began. Any employee taking leave pursuant to this policy who wishes to retain his/her group insurance coverage must arrange to pay his/her share of the premium contributions during the period of unpaid leave.

If an employee fails to return to work after the period of leave has expired, other than due to a continuation, recurrence, or onset of a serious health condition that entitles the employee to leave pursuant to this policy, or circumstances beyond the employee's control, the Ohio Department of Agriculture and/or the State of Ohio will be entitled to seek reimbursement for health insurance premiums paid for that employee during the period of leave. If an employee is unable to return to work because of the continuation, recurrence, or onset of a serious health condition entitling the employee to FMLA leave, the employee must provide appropriate certification in order to be relieved from the liability for insurance premiums. In the case of an employee who is unable to return to work because of the employee's own serious health condition, the employee must provide certification from his/her health care provider stating that the employee's serious health condition prevented the employee from being able to perform the functions of the employee's position on the date that the employee's period of leave expired. If an employee is unable to return to work because he/she is caring for a son, daughter, spouse or parent with a serious health condition, the employee must provide certification from the family member's health care provider stating that the employee is needed to care for the employee's son, daughter, spouse or parent who has a serious health condition on the date that the employee's period of leave expired.

## **V. Maintenance/Accrual of Benefits During Leave**

An employee taking FMLA leave is entitled to maintain any employment benefits, other than the paid and unpaid leave required to be used, that the employee had accrued prior to the date upon which the leave began. During any period of unpaid FMLA leave, the employee will not accrue longevity or employment benefits. This means that employees will not accrue personal leave, sick leave, and vacation leave for periods of time during which they

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take unpaid leave. Employees who return to work after FMLA leave will not lose any service credit. Benefit entitlements based upon length of service will be calculated as of the last paid work day prior to the start of the unpaid leave of absence except that unpaid FMLA leave will be treated as continued service (i.e., no break in service) for purposes of vesting and eligibility to participate in pension and other retirement plans.

## **VI. Return to Work After Leave**

Any employee taking FMLA leave is entitled to be restored to the position he/she held when the leave began, or to be placed in an equivalent position with equivalent employee benefits, pay and conditions of employment. An employee, who has taken leave based upon the employee's own serious health condition, must provide certification from the employee's health provider that the employee is able to resume work. If an employee is covered by a collective bargaining agreement which governs the return to work of employees in such a situation, the terms of that agreement will apply to that employee.

## **VII. FMLA Definitions**

The following definitions shall be used for the purposes of FMLA leave:

### **SPOUSE:**

Husband or wife as defined or recognized under state law for purposes of marriage.

### **PARENT:**

Biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child.

### **SON OR DAUGHTER:**

Biological, adopted, or foster child, a step-child, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability."

### **INCAPABLE OF SELF-CARE:**

An individual that requires active assistance or supervision to provide daily self-care in several of the "activities of daily living." Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

### **PHYSICAL OR MENTAL DISABILITY:**

A physical or mental impairment that substantially limits one or more of the major life activities of an individual. Regulations at 29 CFR Part 1630, issued by the Equal Employment Opportunities Commission under the Americans with Disabilities Act, 42 U.S.C. 12101 et. seq. define these terms.

**CONTINUING TREATMENT BY A HEALTH CARE PROVIDER:**

**One or more of the following**

1. The employee or family member in question is treated two or more times for the injury or illness by a health care provider. Normally this would require visits to the health care provider or to a nurse or physician's assistant under direct supervision of the health care provider.
2. The employee or family member is treated for the injury or illness two or more times by a provider of health services (e.g. physical therapist) under orders of, or on referral by, a health care provider, or is treated for the injury or illness by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider--for example, a course of medication or therapy--to resolve the health condition.
3. The employee or family member is under continuing supervision of, but not necessarily being actively treated by, a health care provider due to a serious long-term or chronic condition or disability which cannot be cured. Examples include persons with Alzheimer's, persons who have suffered a severe stroke, or persons in the terminal stages of a disease who may not be receiving active medical treatment.

**VIII. Records**

- Human Resources will maintain records of leave balances and FMLA leave use. FMLA forms must be updated every twelve months including those cases which include lifelong illnesses
- Any medical records accompanying FMLA requests will be kept separate from personnel files.
- To the extent required by law, medical records related to FMLA leave shall be kept confidential.

Any additional questions or requests for assistance should be addressed to the Office of Human Resources at 466-4595.

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## **Flex-time Policy**

### **PURPOSE**

To operate all Divisions of the Ohio Department of Agriculture in a manner to enhance efficiency and increase productivity. To provide flexible hour scheduling in order to develop, promote and maintain quality work lives for all ODA employees.

### **SCHEDULING**

In accordance with agency policy, all Divisions headquartered at the Reynoldsburg Campus must maintain normal business hours from 8:00 A.M. - 5:00 P.M. Monday - Friday.

All Division Chiefs are responsible for establishing minimum staffing levels (i.e. not all employees may opt to take the same time off). All flextime work schedules must be based on the needs of the agency and are **NON-GRIEVABLE**. Holidays will continue to count as an 8 hour day.

All employee schedules and schedule changes must be approved by the employee's immediate supervisor in advance.

### **EXCEPTIONS**

Flextime is not available to field employees whose schedules are established by parties other than the employer pursuant to Article 13.02 of the collective bargaining agreement.

### **FLEXTIME POLICY**

1. No employee shall begin their normal workday prior to 7:00 AM, nor after 9:00 AM.
2. No employee shall end their normal workday prior to 4:00 PM, nor after 6:00 PM.
3. At least one supervisor must be present in each building during all hours that employees are scheduled to work, including all flex hours.
4. The core hours for each division must be staffed. For the divisions at the Bromfield campus, these hours are 8:00 AM to 5:00 PM.
5. Requests for a flex time schedule shall be made for and granted for a period of three (3) consecutive months' duration and shall not be cancelled or otherwise modified except for good cause as approved by the Division Chief.

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## **SIGN-IN/SIGN-OUT**

In order to maintain consistency and track the system based upon the number of options available, **ALL** employees will be required to sign in and sign out when they arrive and depart for the day and for lunch. Sign-In/Sign-Out Logs may be modified by Divisions to meet their needs.

## **SUMMARY**

- All flextime scheduling is non-grievable and all disputes shall be decided by the Director or his designee.
- All scheduling is subject to Supervisor approval.
- All scheduling changes are subject to Supervisor's approval.
- This policy supercedes prior ODA Pilot flextime policy dated 1/1/1994.

**Meal Periods/Break Periods**

1. No employee shall be required to take less than thirty (30) minutes or no more than one (1) hour for a meal period. Meal periods will usually be scheduled near the midpoint of the workday.
2. Employees are not permitted to eat lunch at their work stations unless they are overtime exempt under the Fair Labor Standards Act. No members of the bargaining-unit are currently overtime exempt so they may not eat lunch at their work stations.
3. Employees will receive two paid 15-minute break/rest periods during an eight-hour day (one 15-minute rest period during each halfday of work). These rest periods will be approved by the employee's supervisor and will be based on the operational needs of the department. When on a rest period, employees are NOT permitted to disrupt the work of other employees who are not on rest period. Rest periods are intended to provide employees with the opportunity to leave their workstation for the purpose of relaxation. However, the employer reserves the right to limit the employees' activities and movements during paid rest periods. Rest periods shall not be combined with permissive leave, or lunch breaks to allow an employee to leave early or arrive late. Employees are expected to return to work promptly after rest period. Employees may not take breaks at the employee's work station.

These requirements must be followed to insure our agency is in compliance with both the State of Ohio – OCSEA Collective Bargaining Agreement and the Fair Labor Standards Act.

**Leave Donation**

Employees may donate paid leave to a fellow employee who is otherwise eligible to accrue and use sick leave and is employed by the same Agency. The intent of the leave donation program is to allow employees to voluntarily provide assistance to their co-workers who are in critical need of leave due to the serious illness or injury of the employee or a member of the employee's immediate family. The definition of immediate family as provided in rule 123:1-47-01 of the Administrative Code shall apply for the leave donation program.

- A. An employee may receive donated leave, up to the number of hours the employee is scheduled to work each pay period, if the employee who is to receive donated leave:
  - 1. Or a member of the employee's immediate family has a serious illness or injury;
  - 2. Has no accrued leave or has not been approved to receive other state-paid benefits; and
  - 3. Has applied for any paid leave, workers' compensation, or benefits program for which the employee is eligible. Employees who have applied for these programs may use donated leave to satisfy the waiting period for such benefits where applicable, and donated leave may be used following a waiting period, if one exists, in an amount equal to the benefit provided by the program, i.e. fifty six hours (56) pay period may be utilized by an employee who has satisfied the disability waiting period and is pending approval, this is equal to the seventy percent (70%) benefit provided by disability.
  
- B. Employees may donate leave if the donating employee:
  - 1. Voluntarily elects to donate leave and does so with the understanding that donated leave will not be returned;
  - 2. Donates a minimum of eight hours; and
  - 3. Retains a combined leave balance of at least eighty hours. Leave shall be donated in the same manner in which it would otherwise be used except that compensatory time is not eligible for donation.
  
- C. The leave donation program shall be administered on a pay period by pay period basis. Employees using donated leave shall be considered in active pay status and shall accrue leave and be entitled to any benefits to which they would otherwise be entitled. Leave accrued by an employee while using donated leave shall be used, if necessary, in the following pay period before additional donated leave may be received. Donated leave shall not

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count toward the probationary period of an employee who receives donated leave during his or her probationary period. Donated leave shall be considered sick leave, but shall never be converted into a cash benefit.

- D. Employees who wish to donate leave shall certify:
1. The name of the employee for whom the donated leave is intended;
  2. The type of leave and number of hours to be donated;
  3. That the employee will have a minimum combined leave balance of at least eighty hours; and
  4. That the leave is donated voluntarily and the employee understands that the donated leave will not be returned.
- E. Appointing authorities shall ensure that no employees are forced to donate leave. Appointing authorities shall respect an employee's right to privacy. However appointing authorities may, with the permission of the employee who is in need of leave or a member of the employee's immediate family, inform employees of their co-worker's critical need for leave. Appointing authorities shall not directly solicit their leave donations from employees. The donation of leave shall occur on a strictly voluntary basis.

### **Jury Duty**

Any employee who is subpoenaed for deposition, called for jury duty or subpoenaed to appear in court by the United States, the State of Ohio or a political subdivision thereof, shall be granted full pay after providing supporting documentation.

The Employee must remit any compensation received for court or jury duty in excess of fifteen dollars (\$15.00) per day to the Fiscal Section unless such duty is performed outside normal working hours.

Employees will not receive compensation when appearing in court as a party for criminal or civil cases in connection with the employee's personal matters (such as traffic and/or criminal court, divorce proceedings, custody hearings, etc.). When in court for personal matters, employees must use vacation, personal or compensatory time.

Leave with pay at regular rate shall be granted for service upon a jury. When not impaneled for actual service and only on call, the employee shall report to work as soon as reasonably possible after notification that his/her services will not be needed. In cases where the employee would report to do less than (4) hours work, the employee need not report.

An employee must submit a Request for Leave form (ADM 4268) with an attached copy of the court/jury duty notification for approval prior to such duty.

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<b>Holiday</b>	<b>Date</b>
New Year's Day	First Day in January
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	Fourth Day of July
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veteran's Day	Eleventh Day of November
Thanksgiving Day	Fourth Thursday in November
Christmas Day	25 <sup>th</sup> Day of December

When a holiday falls on a Sunday, the holiday is observed on the following Monday.

When a holiday falls on a Saturday, the holiday is observed on the preceding Friday.

### **Bargaining Unit Employees**

**Employees who call off sick the day of, the day before or the day after a holiday forfeit their holiday pay, unless the employee is able to provide documentation of extenuating circumstances.**

### **Exempt Employees**

**Employees who are scheduled to work ON the holiday and call off sick the day of, the day before, or the day after a holiday forfeit their holiday pay, unless the employee is able to provide documentation of extenuating circumstances.**

**Steward/Grievant's Time**

The Collective Bargaining Agreement by and between the State of Ohio and OSCEA provides that stewards/grievants be allowed a reasonable amount of time away from their regular duties to perform duties required in the grievance process. This is contained in Article 25.06 of the Collective Bargaining Agreement.

Stewards/grievants who wish to take time away from their regular duties to perform grievance related duties must request approval from their immediate supervisor.

Requests for time off under Article 25.06 will follow the procedure specified in Article 3.11 of the Collective Bargaining Agreement.

Stewards/grievants will, upon entering any work area other than their own and prior to engaging in any representative duties, report to the supervisor involved. They shall notify the designated supervisor of that work area of their presence, the nature of their business and where the meeting will be held.