

**STATE OF OHIO
ADJUTANT GENERAL'S DEPARTMENT
2825 West Dublin Granville Road
Columbus, Ohio 43235-2789**

MEMORANDUM

TO: SEE DISTRIBUTION

FROM: Gregory L. Wayt, Major General (Ohio), The Adjutant General 

DATE: January 5, 2005

SUBJECT: POLICY – State Employee Procedure Letter #25
Sick Leave for Bargaining Unit Employees

1. REFERENCE: Article 29, AFSCME/OCSEA Labor Agreement

2. SCOPE: This policy letter applies to only bargaining unit employees of this agency represented by the AFSCME/OCSEA Labor Agreement.

3. DEFINITIONS: Sick Leave for State Employees

- a. New Sick Leave: Sick leave credited after the base pay period, which includes December 1.
- b. Old sick leave: Sick leave accrued with an agency not paid by Auditor of State and was transferred if the employee was hired on or after July 5, 1987. Old sick leave will not be paid upon termination and has no conversion options. This sick leave can only be used after NEW SICK LEAVE is exhausted.

4. SICK LEAVE ACCURAL:

- a. All full-time permanent employees shall accrue sick leave at the rate of 3.1 hours for each eighty (80) hours in active pay status, excluding overtime hours, not to exceed eighty (80) hours in one year.
- b. Less than full-time employees shall receive 3.1 hours of sick leave for each eighty (80) hours of completed service, not to exceed eighty (80) hours in one year.
- c. Employees that are on approved leave of absence or receiving Workers' Compensation benefits shall be credited with those sick leave hours which they normally would have accrued upon their approved return to work.

5. PURPOSE: Sick leave shall be granted to employees who are unable to work because of illness or injury of the employee or a member of his/her immediate family living in the employee's household or because of medical appointments or other ongoing treatment. The definition of "immediate family" for purposes of this sick leave usage shall be: spouse, significant other (one who stands in place of a spouse, and who resides with the employee), child, step-child, grandchild, parents, step-parents, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparents, great grandparents, brother, sister, step-siblings, brother-in-law, sister-in-law, or legal guardian or other person who stands in the place of a parent.

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Sick leave may be granted to care for an employee's child/parent(s) regardless of whether or not the child/parent(s) is currently living in the same household, but in cases in which both parents are employed by the State, only one parent may be granted sick leave to care for a child at home on the same day.

A period of up to ten (10) working days of sick leave will be allowed for parenting during the postnatal period or following an adoption.

6. SICK LEAVE USAGE AND RATE OF PAY: The amount of sick leave charged against an employee's accrual shall be the amount used, charged in units of one-tenth (1/10) hour. Employees shall be paid for sick leave at the rates specified below for each usage period (except the firefighter Class Series 2659). A new usage period will begin with the first day of the pay period that follows the pay period in November from which the first paycheck in December is issued.

- a. The initial forty hours of sick leave shall be paid at a rate equal to the employee's regular rate of pay.
- b. The next forty hours of sick leave shall be paid at a rate equal to seventy percent (70%) of the employee's regular rate of pay.
- c. Sick leave used in excess of eighty hours shall be paid at a rate equal to the employee's regular rate of pay.
- d. Any sick leave used during the 40.1 to 80 hours for time spent hospitalized overnight by the employee, employee's spouse or child residing with the employee or for those hours of sick leave used before or after the hospital stay that are contiguous to the hospital stay, will be paid at 100%. In the event this paragraph is found to violate the FMLA or any other State or Federal law or regulation or the implementation of such will adversely affect the provisions of this Article, the parties agree that this paragraph will be null and void. (Effective date July 1, 2003.)

The amount of sick leave charged against a full-time firefighter's (Class Series 2659) accrual shall be the amount used, charged in units of one-tenth (1/10) hour. Compensation for sick leave used during each twelve-month period beginning the pay period that includes the first day of December shall be at the rates established below:

- a. The initial fifty-two (52) hours of sick leave shall be paid at a rate equal to the employee's regular rate of pay.
- b. The next fifty-two (52) hours of sick leave shall be paid at a rate equal to seventy (70) percent of the employee's regular rate of pay.
- c. Sick leave used in excess of one hundred four (104) hours shall be paid at a rate equal to the employee's regular rate of pay.
- d. Any sick leave used during the 52.1 to 104 hours for time spent hospitalized overnight by the employee, employee's spouse or child residing with the employee or for those hours of sick leave used before or after the hospital stay that are contiguous to the hospital stay, will be paid at 100%. In the event this paragraph is found to violate the FMLA or any other State or Federal law or regulation or the implementation of such will adversely affect the provisions of this Article, the parties agree that this paragraph will be null and void. (Effective date July 1, 2003.)

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Employees may elect to utilize sick leave to supplement an approved Disability Leave, Workers' Compensation Claim or Adoption/Childbirth Leave. Sick leave used for these supplements shall be paid at a rate of 100% of the employee's regular rate of pay. After employees have used all of their accrued sick leave they may, at their supervisor's discretion, use accrued vacation, compensatory, personal leave, or may be granted leave without pay.

7. NOTIFICATION TO SUPERVISOR: When an employee is sick and unable to report to work, he/she will notify his/her immediate supervisor or designee no later than **one half (1/2) hour** after starting time, unless circumstances preclude this notification. The supervisor may request a written statement from a physician or attending medical professional who has examined the employee or the member of the employee's immediate family, be submitted in writing within a reasonable period of time (normally three working days). Failure to notify the supervisor (or designee) in accordance with this provision shall result in the employee forfeiting any rights to pay for the time period which elapsed prior to the notification unless unusual extenuating circumstances existed to prevent notification.

An exception to this notification procedure is the Air National Guard Base Security and Firefighter Programs. Due to the twenty-four (24) hour per day mission and security requirements, personnel employed in these programs must notify his/her supervisor **not less than one-half (1/2) hour prior** to scheduled report to work time.

If sick leave continues past the first day, the employee will notify his/her supervisor or designee of the anticipated duration of the absence. The employee is responsible for establishing a report-in schedule that is acceptable to the supervisor for the anticipated duration of the absence. If an acceptable schedule is not established, the employee will notify his/her supervisor every day of the absence period.

In the case of a condition exceeding three consecutive calendar days, a physician's statement specifying the employee's inability to report to work and the probable date of recovery may be required.

8. CARRY-OVER AND CONVERSION: Employees will be offered the opportunity to convert to cash any part of their sick leave accrued and not used during the prior year's usage period at the following rates(except the firefighter Class Series 2659).

- a. An employee who did not use sick leave during or subsequent to the base pay period may convert up to eighty hours of unused sick leave at a rate equal to eighty percent (80%) of the employee's regular rate of pay.
- b. An employee who used eight hours or less of sick leave may convert eighty hours, less the amount used, at a rate equal to seventy-five percent (75%) of the employee's regular rate of pay.
- c. An employee who used more than eight hours and less than 16.10 hours of sick leave may convert eighty hours, less the amount of leave used, at a rate equal to seventy percent (70%) of the employee's regular rate.
- d. An employee who used more than sixteen hours but less than 24.10 hours of sick leave may convert eighty hours, less the amount of leave used, at a rate equal to sixty-five percent (65%) of the employee's regular rate of pay.

- e. An employee who used more than twenty-four hours but less than 32.10 hours of sick leave may convert eighty hours, less the amount of leave used, at a rate equal to sixty percent (60%) of the employee's regular rate of pay.
- f. An employee who used more than thirty two hours of sick leave may convert eighty hours, less the amount of leave used, at a rate equal to fifty-five percent (55%) of the employee's regular rate of pay.

Full-time firefighters (Class Series 2659) are entitled to receive a cash benefit conversion for unused sick leave based on the amount of sick leave used during or subsequent to the applicable base pay period as described below:

- a. An employee who did not use sick leave during or subsequent to the base pay period may convert up to one hundred four (104) hours of unused sick leave at a rate equal to eighty percent (80%) of the employee's base rate of pay.
- b. An employee who used 10.4 hours of sick leave or less may convert one hundred four (104) hours less the amount of leave used, at a rate equal to seventy-five percent (75%) of the employee's base rate of pay.
- c. An employee who used more than 10.4 hours of sick leave but less than 20.8 hours may convert one hundred four (104) hours, less the amount of leave used, at a rate equal to seventy percent (70%) of the employee's base rate of pay.
- d. An employee who used more than 20.8 hours of sick leave but less than 31.2 hours may convert one hundred four (104) hours less the amount of leave used, at a rate equal to sixty-five percent (65%) of the employee's base rate of pay.
- e. An employee who used more than 31.2 hours of sick leave, but less than 41.6 hours may convert one hundred four (104) hours, less the amount of leave used, at a rate equal to sixty percent (60%) of the employee's base rate of pay.
- f. An employee who used more than 41.6 hours of sick leave, may convert one hundred four (104) hours, less the amount of leave used, at a rate equal to fifty-five percent (55%) of the employee's base rate of pay.

Employees have the option of carrying forward all or a portion of the balance of sick leave credit and receive a cash benefit conversion of the remaining portion of the sick leave credit as previously stated. An employee not exercising a choice will automatically have the hours carried forward.

An employee who has a minimum of five (5) years of state service with the State of Ohio who terminates state service or retires, shall convert to cash any sick leave accrued at the employee's regular rate of pay earned at the time of separation within three (3) years of separation, at the rate of fifty-five percent (55%) for retirement separation or fifty percent (50%) for all other separations. Complete State of Ohio ADM 4259. (sample attached). If an employee dies, the converted sick leave shall be credited to his/her estate. An employee who is granted military leave, or leave without pay, may be paid for accrued sick leave or may keep it in reserve for use upon return at his/her discretion. An employee who is re-employed, reinstated or recalled from lay off, and who received a lump sum payment for unused sick leave may have such leave restored by returning the dollar amount paid by the Employer for the amount of leave to be restored.

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9. SICK LEAVE POLICY: It is the policy of the State of Ohio to **not unreasonably deny** sick leave to employees when requested. It is also the policy of the State to take corrective action for unauthorized use of sick leave and/or abuse of sick leave. It is further the policy of the State that when corrective and/or disciplinary action is taken, it will be applied progressively and consistently. It is the desire of the State of Ohio that when discipline is applied it will serve the purpose of correcting the performance of the employee.

- a. Purpose: The purpose of this policy is to establish a consistent method of authorizing employee sick leave, defining inappropriate use of sick leave, and outlining the discipline and corrective action for inappropriate use. The policy provides for the equitable treatment of employees without being arbitrary and capricious, while allowing management the ability to exercise its administrative discretion fairly and consistently.
- b. Definitions:
 1. Sick Leave: Absence granted for medical reasons
 2. Unauthorized use of sick leave:
 - a. Failure to notify supervisor of medical absence;
 - b. Failure to complete standard sick leave form;
 - c. Failure to provide physician's verification when requested;
 - d. Fraudulent physician verification.
 3. Misuse of sick leave: Use of sick leave for that which it was not intended or provided:
 4. Pattern abuse: Consistent periods of sick leave usage, for example:
 - a. Before, and/or after holidays;
 - b. Before, and/or after weekends or regular days off;
 - c. After pay days;
 - d. Any one specific day;
 - e. Absence following overtime worked;
 - f. Half days;
 - g. Continued pattern of maintaining zero or near zero leave balances;
 - h. Excessive absenteeism.

10. UNAUTHORIZED USE OR ABUSE OF SICK LEAVE: When authorized use or abuse of sick leave is substantiated, the supervisor will effect corrective and progressive discipline, keeping in mind any extenuating or mitigating circumstances. Supervisors will issue oral and written reprimands for violation of the sick leave policy. A standard form to issue oral reprimands is attached to AGOH Policy Letter #22.

When progressive discipline reaches the first suspension, a corrective counseling session will be conducted with the employee. The division chief or second level supervisor and the State Human Resource Administrator will jointly explain the serious consequences of continued unauthorized use or abuse of sick leave. Management representatives in this meeting shall be available and receptive to a request for an Employee Assistance Program (EAP). If this does not produce the desired positive change in performance, the Agency Head or designee will proceed with progressive discipline up to and including termination.

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11. PATTERN ABUSE: If an employee abuses sick leave in a pattern, The Adjutant General, the Chief Human Resource Officer or the department State Human Resource Administrator may reasonably suspect pattern abuse. If it is suspected, then the employee will receive a written notice of "Pattern Abuse." The notice will invite the employee to explain, rebut, or refute the pattern abuse claim. Use of sick leave for valid reasons shall not be considered for "Pattern Abuse." If a satisfactory explanation is not provided, then progressive discipline may begin.

Enclosure: (1)

1 - State of Ohio ADM Form 4259

DISTRIBUTION:

AD

STATE OF OHIO
VACATION LEAVE AND SICK LEAVE CONVERSION FORM
(for employees paid by warrant of Auditor of State)

Name: _____ Department: _____

1. Employee being transferred:

_____ I request that my entire vacation leave balance be transferred to the new agency.

II. Employee being separated from service:

Section 124.384 of the Revised Code and the collective bargaining agreements provide that within three years of separation from state service an eligible employee may be paid for a percentage of accumulated sick leave at the rate of one hour of pay for each two hours of accumulated balance.

_____ I would like to be paid for all of my accumulated sick leave balance.

_____ I would like to be paid for ____ percent (or hours) of my accumulated sick leave balance with the remainder being held for reinstatement when I am re-employed in the future.

_____ I would like to retain all of my accumulated sick leave balance for reinstatement when re-employed within ten years or for the conversion at any time within three years.

_____ I do not have the state service required for sick leave conversion. (One year of state service for employees who are exempt, covered by the District 1199 contract, or covered by bargaining agreements with elected officials except Auditor's Office. Five years of service for employees covered by the OCSEA, FOP 1, FOP 2, FOP 15, OEA, UFCW and Auditor of State contracts.)

Signature of employee

Date

Signature of agency designee

Date

Distribution: Agency File
Employee

ADM 4259 – Revised 8-94

ENCLOSURE 1