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Secretary

DAVID C. ROMANS
Deputy Secretary

MEMORANDUM

TO: Personnel Directors

FROM: Cynthia A. Kollner 
Executive Director
Office of Personnel Services and Benefits

DATE: October 31, 2008

RE: Sick Leave Guidelines

State agencies often have bargaining unit members working side-by-side with employees who are excluded from bargaining. In order to enhance the overall effectiveness of agency operations, the past practice of the Office of Personnel Services and Benefits (OPSB) has been to request that each department adopt the sick leave provisions contained in negotiated Memoranda of Understanding (MOU), to be used as the standard for all employees, not just bargaining unit employees.

In order to make information about the sick leave provisions available to all supervisors and managers who do not have bargaining unit members who report to them, this information must be in a form that is accessible. Therefore, attached please find Sick Leave Guidelines for your immediate use. You will find that these Guidelines mirror the language contained in pertinent laws, regulations, and current MOUs that include sick leave provisions. It does not seek to restrict or expand any management or bargaining unit members' rights or obligations established in any MOU.

We encourage you to share these Guidelines with your employees. Additionally, we plan to provide supervisory training on leave usage, including but not limited to sick leave, in the near future. In the interim, if you have any questions concerning this matter, please feel free to contact Leslie G. Buchman, Director, Personnel Services Division, at 410-767-4718 or Rick Losemann, Director, Employee Relations Division, at 410-767-3488.

Attachment

cc: T. Eloise Foster, Secretary, Department of Budget and Management (DBM)
David Romans, Deputy Secretary, DBM
Bruce P. Martin, Principal Counsel, DBM
L. Kristine Hoffman, Assistant Attorney General, DBM
Catherine M. Hackman, Deputy Executive Director, OPSB, DBM
Leslie G. Buchman, Director, Personnel Services Division, OPSB, DBM
Rick Losemann, Director, Employee Relations Division, OPSB, DBM

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OFFICE OF PERSONNEL SERVICES AND BENEFITS

SICK LEAVE GUIDELINES

1. Eligibility

In accordance with State law, employees are entitled to sick leave with pay:

- a. for illness or disability of the employee;
- b. for death, illness, or disability of a member of the employee's immediate family;
- c. following the birth of the employee's child;
- d. when a child is placed with the employee for adoption; or
- e. for a medical appointment of the employee or a member of the employee's immediate family.

“Immediate family” is defined as: the employee’s spouse; the employee’s children (including foster and stepchildren); parents, stepparents, or foster parents of the employee or spouse, or others who took the place of parents; legal guardians of the employee or spouse; brothers and sisters of the employee or spouse; grandparents and grandchildren of the employee or spouse; and other relatives living as members of the employee’s household.

2. Notification

When an employee is unable to work due to circumstances provided in Section 1, the employee or employee's designee will notify his/her immediate supervisor or designee at the work site at a time as established by existing agency policy/practice, unless extenuating circumstances preclude this notification. When an employee calls in accordance with established practice or policy, he/she shall leave a message if the supervisor or supervisor's designee is unavailable, or the Employer may instruct an employee to call a secondary number, and the employee will not be required to call back.

The employee or designee must call each day of absence until the employee notifies the Employer of a date he/she will return to duty. The Employer shall not ask the employee to provide information as to his/her diagnosis or condition except as permitted by applicable law.

3. Certificate of Illness for Absences for Five (5) or More Consecutive Days

The Employer shall require an employee to provide an original certificate of illness or disability only in cases where an absence is for five (5) or more consecutive workdays or in accordance

with the procedures described in Section 4 below. The certificate required by this Section shall be signed by one of the following:

- A. A medical doctor who is authorized to practice medicine or surgery by the state in which the doctor practices;
- B. If authorized to practice in a state and performing within the scope of that authority:
 - 1. a chiropractor;
 - 2. a clinical psychologist;
 - 3. a dentist;
 - 4. a licensed certified social worker – clinical;
 - 5. a nurse midwife;
 - 6. a nurse practitioner;
 - 7. an oral surgeon;
 - 8. an optometrist;
 - 9. a physical therapist; or
 - 10. a podiatrist;
- C. An accredited Christian Science practitioner; or
- D. A health care provider as defined by the federal Family Medical Leave Act.

4. Certificate of Illness for Absences of Less Than Five (5) Consecutive Days

The Employer may require an employee to submit documentation of sick leave use on the following conditions:

- A. When an employee has a consistent pattern of maintaining a zero or near zero sick leave balance without documentation of the need for such relatively high utilization; or
- B. When an employee has six (6) or more occurrences of undocumented sick leave usage within a twelve (12) month period. Sick leave use that is certified in accordance with this policy shall not be considered as an occurrence.

Note that after the first instance of an employee being absent for more than four (4) consecutive days without documentation, the Employer may place the employee on notice that future absences of more than three (3) days, within a rolling twelve (12) month period, will require documentation.

5. Procedures for Certification Requirement

Prior to imposing a requirement on an employee for documentation of sick leave use, the Employer shall orally counsel the employee that future undocumented absences may trigger a requirement for certification of future instances of sick leave.

If the employee has another undocumented absence after such counseling, the Employer may then put the employee on written notice that he/she must certify all sick leave usage for the next six (6) months if the undocumented absences accumulate in accordance with Section 4.

At the conclusion of the six (6) months, the certification requirement will be rescinded provided the employee has complied with the requirement. If the employee has not complied, the requirement shall be extended for six (6) months from the date of the lack of compliance with the requirement.

Although a requirement for certification is not a disciplinary action, an employee may grieve allegations of misapplication of this procedure.

6. Chronic Conditions

Employees who suffer from chronic or recurring illnesses or disabling conditions that do not require a visit to a health care provider each time the condition is manifested, shall not be required to provide certification for each absence, provided that a general certification is provided, unless the absence is for five (5) or more consecutive days. Such frequent absences also shall not be used as the basis for a certification requirement.

Unless the employee has a condition identified as a permanent disabling condition, the Employer may require certification and follow-up reports from a health care provider no more frequently than every six (6) months of the continued existence of the chronic condition.

7. Acceptable Documentation

For the purposes of absences of less than five (5) consecutive days, acceptable documentation shall consist of the following:

- A. A certificate from a health care provider that the employee (or member of the employee's immediate family) visited the office and/or the employee was unavailable for duty for the reasons specified in Section 1 on the day or dates of absence. For absences of four (4) hours or less, at the employee's option, he or she may submit a copy of the universal health insurance claim form or similar document from the health care provider's office showing the name of the provider, the date of treatment and address and telephone number of the provider.
- B. An employee who works less than his/her full work day due to having to provide care to the employee's child or member of his/her immediate family shall not be required to provide certification from an acceptable health care provider unless management has a basis to believe sick leave is being used for a purpose other than described in Section 1 above. Sick leave use in such circumstances shall not count as an occurrence under Section 4.

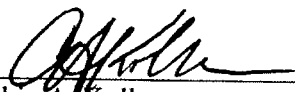
8. Disciplinary Actions

The Employer may take appropriate disciplinary action against an employee for using sick leave for purposes other than described in law, regulation, this policy, or an applicable MOU; for failing to properly notify the Employer of the use of sick leave; or for failure to provide appropriate documentation when properly required to do so.

The Employer may not penalize an employee with regard to scheduling, overtime eligibility, performance evaluations or other right or benefit for sick leave usage for being subject to a documentation requirement.

This does not preclude appropriate disciplinary action for use of sick leave for purposes other than described in Section 1.

RELEASED:



Cynthia A. Kollner
Executive Director
Office of Personnel Services and Benefits
Maryland Department of Budget and Management

10/31/08
Date