

**COLLECTIVE BARGAINING CLARIFICATION LETTER**

**NO. 12-10-01**

To: All Labor Relations Officers and Personnel Officers  
From: Michael Duco, Deputy Director  
Date: October 31, 2012  
Subject: **ALL CONTRACTS; Order of Leave Usage Pending Disability Approval and for  
Supplementation of Disability Benefits**

This clarification letter replaces clarification letter No. 00-05-01.

In 1993, the State of Ohio and OCSEA, AFSCME Local 11, signed a precedent setting settlement agreement of a grievance from 1989, regarding the order in which employees may use leave pending the approval of a disability claim, as well as a clarification of then Article 35A.04, Other Leave Usage to Supplement Disability. (Article 35A.03 was renumbered to be 35A.04 in the 1992-1994 contract and was removed from the contract in 1997. Ohio Administrative Code (OAC) 123:-1-33-16 provides the same benefit as did article 35A.04.) The information is also included in the Disability Job Aids, which is available on myOhio.gov. **The Office of Collective Bargaining has determined that the principles of the above-referenced Agreement will apply to the term of all labor agreements.**

This settlement provides that employees shall choose the order that leave balances will be used pending the processing of their disability claim. It also clarifies Article 35A.03 providing that employees who desire to supplement disability leave benefits may select from among sick leave, personal leave or vacation leave the order in which they wish to use those leaves. Employees may also choose to use compensatory time to supplement the disability leave benefits.

Finally, please note that where an employee has not notified the Employer in writing of the employee's choice of leave usage the Employer may determine which leave will be used first, either pending claim approval, and/or supplementation of benefits. If the employee subsequently notifies the Employer in writing, the employee's choice shall be honored from that point forward.

As always, please call or write your Labor Relations Specialist with any questions that you may have regarding this or other subjects.