

DISABILITY LEAVE BENEFITS—EFFECTIVE OCTOBER 29, 2006

| Current Rule | Former Rule(s) | Description of Change | OCSEA Contract Language (if applicable) |
|--|---|--|--|
| AC 123:1-33-01 Eligibility for Disability Leave Benefits | AC 123:1-33-12(A); AC 123:1-33-12(C); AC 123:1-33-12(D); AC 123:1-33-13(F) | 1. Requires an employee diagnosed with a mental health illness to 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. | Art. 35.01(B) |
| AC 123:1-33-02 Application for Disability Leave Benefits | AC 123:1-33-13 | 1. States that an application is not complete until the disabling illness, injury or condition for which the employee is requesting benefits occurs. 2. Requires an application for disability benefits based on a diagnosis of a mental disorder to be confirmed by a licensed mental health provider authorized by the employer's mental health administrator. 3. Clarifies that an applicant must comply with all retirement system requirements when filing for disability retirement benefits. | Art. 35.01(B) |
| AC 123:1-33-03 Conditions Precluding Receipt of Disability Leave Benefits | AC 123:1-33-14 | 1. Adds notification of a final order from the court of common pleas to the list of triggering events that allows an employee to request that the initial application be reviewed for extension of disability leave benefits. 2. Adds a section to allow an appointing authority to hold benefits in abeyance if an employee submits an application for benefits after either the employee has received notice of an investigation for discipline or where an investigation regarding the employee is underway. 3. Establishes a process for notifying DAS of an employee seeking disability leave benefits while under investigation. | Art. 35.01(H) |
| AC 123:1-33-04 Appeal of a Denial | AC 123:1-33-07 | 1. Adds language stating that if a third party review results in a denial of benefits, a Chapter 119 hearing will be scheduled. | |
| AC 123:1-33-05 Payment of Disability Leave Benefits | AC 123:1-33-12(B); AC 123:1-33-16 | 1. Requires disability benefits to be paid at 70% of the employee's base rate of pay for the first three months, and decreases benefits paid for the next nine months to 50%. 2. Removes an employee's ability to have health, life or any other insurance benefit paid by the employer after the employee has exhausted disability benefits. | Art. 35.01(D) |
| AC 123:1-33-06 Disability Leave Benefits for an Employee Given a Disability Separation | AC 123:1-33-12(E) | 1. Establishes a lifetime maximum of twelve months. 2. Grandfathers utilization of disability leaves prior to the effective date of the rule so that they don't count against the newly established lifetime maximum. | Art. 35.01(D) |
| AC 123:1-33-07 Transitional or Partial Return to Work | AC 123:1-33-12(D) | 1. Requires an employee to serve a fourteen consecutive day waiting period before returning to work on a part-time basis and receiving disability leave benefits. 2. Clarifies that "returning to work part-time" includes a return to work program, rehabilitation work training program or returning pursuant to a physician's statement. | |

DISABILITY LEAVE BENEFITS—EFFECTIVE OCTOBER 29, 2006

| Current Rule | Former Rule | Description of Change | OCSEA Contract Language (if applicable) |
|---|--|---|---|
| <p align="center">AC 123:1-33-08 Subsequent Disability</p> | <p align="center">AC 123:1-33-12(F)</p> | <ol style="list-style-type: none"> 1. Establishes that subsequent related disability claims that occur within six months of an employee's return to regular full-time work duties and following a previously requested disability leave benefit that was filed before October 29, 2006 are to be considered "new claims." 2. Establishes that subsequent related disability claims that occur within six months of an employee's return to regular full-time work duties and following a previously requested disability leave benefit that was filed on or after October 29, 2006 are to be considered the same disability claim. 3. Establishes that a subsequent related disability that occurs while the employee is participating in an authorized transitional work program (including part-time work) will be considered the same disability claim. | <p align="center">Art. 35.01(D)</p> |
| <p align="center">AC 123:1-33-09 Discipline of an Employee Receiving Disability Leave Benefits</p> | <p align="center">AC 123:1-33-10</p> | <ol style="list-style-type: none"> 1. Removes an employee's ability to receive disability leave benefit payments for the hours the employee spends in a pre-disciplinary investigatory interview, and precludes the employer from counting such hours toward the employee's lifetime maximum benefit. | <p align="center">Art. 35.01(D)</p> |
| <p align="center">AC 123:1-33-10 Civil Service Rights of an Employee Receiving Disability Leave Benefits</p> | <p align="center">AC 123:1-33-08; AC 123:1-33-09</p> | <p align="center">No substantial changes.</p> | |
| <p align="center">AC 123:1-33-11 Notice of Disqualification from Receipt of Disability Leave Benefits</p> | <p align="center">AC 123:1-33-15</p> | <ol style="list-style-type: none"> 1. Adds language stating that an employee will be subject to disqualification from receiving disability benefits if the employee does not comply in a timely manner with state employees' retirement system. | |
| <p align="center">AC 123:1-33-12 Claims filed before October 29, 2006</p> | <p align="center">NA</p> | <ol style="list-style-type: none"> 1. Outlines how to handle payment of disability leave benefits, disability retirement benefits, and the lifetime maximum for employees who brought claims for disability leave benefits prior to October 29, 2006. | <p align="center">Art. 35.01(D)</p> |