**Section 303.145 Disability Leave**

a) An employee who is unable to perform a substantial portion of his/her regularly assigned duties due to temporary physical or mental disability shall upon request be granted a leave for the duration of such disability.

b) In granting such leave or use of sick leave as provided in Section 303.90, the agency shall apply the following standards:

1) A substantial portion of regularly assigned duties shall be those duties or responsibilities normally performed by the employee which constitute a significant portion of the employee's time or which constitute the differentiating factors which identify that particular position from other positions, provided the balance of duties can be reassigned by the agency;

2) A request for disability leave shall be in writing except when the agency is advised by other appropriate means of the employee's disability in which event the employee's signature is not required;

3) Except for service-connected disability as provided in Section 303.135, the employee shall have exhausted available sick leave provided under Section 303.90 prior to being granted a disability leave; an employee may use other accrued paid time for this purpose but is not required to do so;

4) During a disability leave, the disabled employee shall provide written verification by a person licensed under the Medical Practice Act of 1987 [225 ILCS 60] or under similar laws of Illinois or of other states or countries or by an individual authorized by a recognized religious denomination to treat by prayer or spiritual means; such verification shall show the diagnosis, prognosis and expected duration of the disability; such verification shall be made no less often than every 30 days during a period of disability, unless the nature of the disability precludes the need for such frequency of verification;

5) As soon as an employee becomes aware of an impending period of disability, he/she shall notify the appropriate supervisor of such disability and provide a written statement by the attending physician of the approximate date the employee will be unable to perform his/her regularly assigned duties;

6) If the agency has reason to believe that the employee is able or unable to perform a substantial portion of his/her regularly assigned duties, it may seek and rely upon the decision of an impartial physician chosen by agreement of the parties or in the absence of such agreement upon the decision of an impartial physician who is not a State employee and who is selected by the State Employees' Retirement System.

c) Failure of an employee to provide verification of continued disability upon reasonable request shall on due notice cause termination of such leave.

d) An employee's disability leave shall terminate when said employee is no longer temporarily disabled from performing his/her regularly assigned duties.

1) An employee is no longer temporarily disabled when he/she is able to perform his/her regularly assigned duties upon advice of the appropriate authority or, in the absence of such authority, the attending physician.

2) An employee is no longer temporarily disabled when he/she is found to be permanently disabled and unable to perform a substantial or significant portion of his/her regularly assigned duties by the appropriate authority, or in the absence of such authority, by the attending physician.

3) In determining whether to approve a requested discharge of an employee for failure to return from a disability leave or for physical inability to perform the duties of a position, the Director may seek and rely upon the advice of the State Employees Retirement System or other appropriate authority, including an impartial physician selected in accordance with subsection (b)(6) of this Section.

e) Return from Disability Leave.

1) An employee who returns from a disability leave of 6 months or less shall be returned by the Agency to the same or similar position in the same class in which the employee was incumbent at the time the leave commenced.

2) An employee who returns from a disability leave exceeding 6 months and there is no vacant position available in the same class held by the employee at the commencement of such leave may be laid off in accordance with the Rules on Voluntary Reduction and Layoff, unless such leave resulted from service-connected disability, in which case the employee shall be returned to employment as in subsection (e)(1).

f) An employee who is on disability leave while in temporary or emergency status, except if such status results from a leave of absence to accept such position, shall be eligible for such leave for the balance of such appointment and shall earn or accrue no other benefit arising from this Subpart.

g) When the employer has requested a fitness for duty evaluation, pursuant to subsection (b)(6) of this Section, that determines the employee is unfit for duty and the employee's physician certifies the employee is fit for duty, the employer may rely upon the decision of the impartial physician as to the employee's fitness for duty. The examination shall be paid for by the employer.

(Source: Amended at 28 Ill. Reg. 16308, effective December 3, 2004)