

MASSACHUSETTS DEPARTMENT OF CORRECTION

SICK LEAVE

103 DOC 209

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MASSACHUSETTS DEPARTMENT OF CORRECTION	DIVISION: ADMINISTRATION
TITLE: SICK LEAVE	NUMBER: 103 DOC 209

PURPOSE: To establish Department of Correction ("Department") policy concerning sick leave.

REFERENCES: M.G.L., c. 124, § 1 (c) and (q).
Collective Bargaining Agreements

APPLICABILITY: Staff

PUBLIC ACCESS: Yes

LOCATION: Department Central Policy File
Institution's Policy File
Department's Personnel Policy Manual

RESPONSIBLE STAFF FOR IMPLEMENTATION AND MONITORING POLICY:

- Director of Employee Relations
- Assistant Deputy Commissioners
- Superintendents and Division Heads

EFFECTIVE DATE: 06/02/2017

CANCELLATION: 103 DOC 209.00 cancels all previous Department policy statements, bulletins, directives, orders, notices, rules or regulations regarding sick leave which are inconsistent with this policy.

SEVERABILITY CLAUSE: If any part of 103 DOC 209.00 is, for any reason, held to be in excess of the authority of the Commissioner, such decision shall not affect any other part of this policy.

DEFINITIONS

1. BARGAINING UNIT EMPLOYEE: An employee of the Commonwealth in a job title in one of eleven (11) statewide bargaining units, as certified by the Massachusetts Department of Labor Relations, who is covered by an applicable collective bargaining agreement.
2. COLLECTIVE BARGAINING UNIT: One of eleven (11) statewide units, established by the Department of Labor Relations, into which state employees with similar work responsibilities/related job functions represented by a union are grouped for purposes of collective bargaining.
3. CONFIDENTIAL EMPLOYEE: An employee so designated in accordance with the provisions of M.G.L., Chapter, 150E who assists or acts in a confidential capacity to a management employee.
4. DIVISION HEAD: The administrator responsible for the operations of a particular division, i.e., the Commissioner, the Deputy Commissioner, Assistant Deputy Commissioners, and Directors.
5. MANAGEMENT EMPLOYEE: An employee so designated in accordance with the provisions of M.G.L., chapter 150E who (a) participates to a substantial degree in formulating or determining policy, or (b) assists to a substantial degree in preparation for the conduct of collective bargaining, or (c) has substantial responsibility, not initially in effect, in the administration of collective bargaining agreements or in personnel administration, and (d) is not included in a bargaining unit.
6. PART-TIME EMPLOYEE: An employee who is expected to work fifty percent (50%) or more of the hours in the work week of a regular full-time employee in the same title, and who is committed to an assigned tour of duty.
7. SUPERINTENDENT: The chief administrative officer of a state correctional institution.

209.02 ACCRUAL OF SICK LEAVE CREDITS

1. Full-time confidential employees and management employees accumulate sick leave credits at the rate of one and one-quarter days for each full calendar month of employment.
2. Full-time bargaining unit employees (with the exception of institution school teachers, head teachers of institution school and principals of institution school) accumulate sick leave credits at the following rate for each bi-weekly pay period:

Hours/Pay Period	Sick Leave Accrued
75 hours/bi-weekly	4.326975 hours
80 hours/bi-weekly	4.61544 hours

3. Institution school teachers, head teachers of institution school and principals of institution school accumulate sick leave credits at the rate of ten (10) workdays for each school year of service.
4. Regular part-time employees are granted sick leave credits in the same proportion that their part-time service bears to full-time service.

209.03 CONDITIONS UNDER WHICH SICK LEAVE IS GRANTED

Note: In the case of bargaining unit employees, always consult the relevant collective bargaining agreement in addition to this policy.

1. Sick leave is granted at the discretion of the appointing authority to an employee only under the following conditions:
 - a. When an employee cannot perform his/her duties because he/she is incapacitated by personal illness or injury.
 - b. A bargaining unit 1, 2, 3, 4A, 6, 8 and 10 or a confidential or managerial employee may use up to a maximum of sixty (60) days of

sick leave per calendar year for the purpose of:

- i. Caring for the spouse, child, foster child, step-child, parent, step-parent, brother, sister, grandparent, grandchild, parent or child of spouse, person for whom the employee is legal guardian, or relative living in the household who is seriously ill.
 - ii. Parental leave due to the birth or adoption of a child, to be concluded within twelve (12) months of the date of birth or adoption.
- c. A bargaining unit 4, 7 or 9 employee may use up to a maximum of sixty (60) days of sick leave per calendar year for the purpose of:
- i. Caring for the spouse, child or parent of either the employee or his/her spouse or a relative living in the immediate household who is seriously ill.
 - ii. Parental leave due to the birth or adoption of a child, or placement of a child in foster care to be concluded within twelve (12) months of the date of birth or adoption.

NOTE: Where an eligible employee and his/her spouse are both employees of bargaining unit 4 they may be jointly granted a total of not more than sixty (60) days of accrued sick leave for care of a seriously ill parent or for parental leave due to birth.

- d. An employee may use up to a maximum of ten (10) days of sick leave per calendar year in order to attend to necessary preparations and legal requirements related to the employee's adoption of a child. However, in no event may an employee, who is eligible to use sixty (60) days of sick leave in a calendar year for the adoption of a child,

use more than a total of sixty (60) days of sick leave in a calendar year for adoption related purposes.

- e. An employee may use up to ten (10) days of sick leave per year for necessary preparations and/or legal proceedings related to foster care of Department of Children & Families (DCF) (formerly DSS) children such as foster care reviews, court hearings and MAPS training for pre-adoptive parents. The Commonwealth's Human Resources Division (HRD) may approve a waiver of the ten (10)-day limit if needed for difficult placements. In addition, an employee may use the one (1)-day per month of paid leave available to employees for volunteer work under the Commonwealth's School Volunteer or Mentoring Programs for the foregoing foster care activities.
- f. When through exposure to contagious disease, the presence of the employee at the employee's work location would jeopardize the health of others.
- g. When a bargaining unit 1, 2, 3, 4A or 6 employee is absent due to the excessive use of alcohol or narcotics and becomes and continues to be an active participant in an approved counseling service program.
- h. When an employee cannot reasonably schedule appointments with licensed medical or dental professionals outside of normal work hours for purposes of medical treatment or diagnosis of an existing medical or dental condition.

209.04 **NOTIFICATION OF ABSENCES**

- 1. Notification of absences due to illness shall be given to the designated representative of a Superintendent, Division, Department or Unit Head at least one (1) hour prior to the beginning of an employee's shift on each day of absence. (Notification on the first day of absence for

employees in bargaining unit 4). If such notification is not given, such absence may, at the discretion of the Superintendent, Division, Department or Unit Head, be charged as absence without pay.

2. In all cases where possible, an employee absent due to illness two (2) days or longer shall notify his/her supervisor by telephone of the date he/she is expecting to return to work.
3. An employee that is on extended sick leave shall be required to contact his/her supervisor periodically regarding his/her status and may be required to submit medical documentation for such absence.

209.05 **SICK LEAVE SLIPS**

1. A bargaining unit employee requesting the use of sick leave benefits must fill out a sick leave slip indicating the reason for his/her absence e.g., personal illness/injury, serious illness of family member, medical or dental appointments, birth or adoption of a child.
2. The employee shall submit the sick leave slip upon the first day back to work after the absence.
3. In the case of sick slips submitted by Unit 4 employees only, the Superintendent of the facility or his/her designee shall sign and return a copy of the sick leave slip to the employee indicating whether it is a substantiated or unsubstantiated absence.
4. An absence shall be substantiated only when medical evidence is submitted for the absence and that evidence is determined to be satisfactory in accordance with the criteria in the collective bargaining agreement.

209.06 **REVIEW OF SICK LEAVE USAGE**

1. A Unit 4 employee who utilized forty-eight (48) hours of sick leave during the calendar year

shall provide satisfactory medical evidence for each absence thereafter for the remainder of the calendar year. For the purpose of this section, an absence is defined as using sick leave for any portion of an employee's scheduled shift.

Bargaining Unit 4 employees shall not be allowed to submit medical evidence to substantiate an absence until they have used their first 48 hours of sick leave unless they meet the following requirements:

- a. They or a qualifying family member are admitted to a hospital for at least 2 consecutive nights.
- b. Sick leave that is used in conjunction with an approved I.A.
- c. Sick leave that has been substantiated as a result of the issuance of an Attachment D.

All Bargaining Unit 4 employees may be notified by Superintendents/Division Heads via a Satisfactory Medical Evidence Request Form, when they have used forty-eight (48) hours of sick leave and it shall be their responsibility to provide satisfactory medical evidence within seven (7) days using the proper form for every absence thereafter for the remainder of the calendar year. Failure to do so may result in denial of sick leave and/or disciplinary action up to and including termination.

All medical evidence shall be submitted on the designated forms for personal illness (Attachment I) or family illness (Attachment J). Medical evidence submitted on any other form shall not be accepted. The information requested on these forms must be fully answered by the treating health care provider or it shall not be accepted. Employees must submit the original Illness Certification Form. If requested, a copy shall be provided to the employee.

2. Where probable cause exists to believe that sick leave is being abused, a bargaining unit 4 employee may be issued an Attachment D requiring the submission of satisfactory medical evidence be submitted for the absence.

If an employee is required to document his/her sick leave under the probable cause standard, and an approved medical note is provided, the employee's absence shall not be charged against his/her forty-eight (48) hour allotment.

In issuing an Attachment D, Superintendents/Division Heads are required to indicate the specific reason(s) it is felt that probable cause exists to believe that sick leave is being abused.

A reason falling into the "other" category of Attachment D shall have the specific reason listed before issuing the Attachment D.

In the case of an employee going home sick after a dispute with a Supervisor, they should be advised that medical evidence may be required, however, the Attachment D should not be issued to the employee until their first day back to work after being out.

3. Superintendents, Division, Department or Unit Heads shall utilize the following procedure to review the attendance records of their bargaining unit 1, 2, 3, 4A, 6, 7, 8, 9 and 10 employees:
 - a. On a regular basis, but not less than once each year, review the attendance records of their employees in order to determine if any such staff members have developed a potential sick leave abuse problem. Supervising personnel should consider, but not limit themselves, to the following factors in completing this review:
 - i. The excessive use of sick days within the past year that is not directly related to a known medical problem.

- ii. The use of sick leave before or after days off.
 - iii. The continued use of sick leave on the same day of the week.
 - iv. The use of sick leave on a holiday.
 - v. The use of sick leave before or after holidays.
 - vi. The continued use of sick leave in increments of one day or less.
 - vii. An employee who tells his/her supervisor in advance that he/she shall be out sick on a particular day, excluding scheduled medical appointments.
 - viii. An employee who calls in sick yet comes to the office on personal business.
 - ix. The excessive use of sick leave by an employee who is terminating his/her employment.
 - x. The use of sick leave immediately following a dispute between a supervisor and an employee over a work-related matter.
- b. In all cases where a Superintendent, Division, Department or Unit Head suspects, as result of a review, that an employee may be abusing his/her sick leave, the employee should be notified of this suspicion using Attachment C in the case of a bargaining unit 1, 2, 3, 4a, 6, 7, 8, 9 or 10. The notification received by the employee shall be signed by the Superintendent or Division Head.

NOTE: Sick leave abuse for bargaining unit 8 and 10 employees is defined as the use of sick time for purposes other than those

listed in their collective bargaining agreement.

- c. In an individual instance where as a result of monitoring an employee's attendance record a supervisor has reason to believe that an employee has abused his/her sick leave, the employee shall be notified that he/she is required to produce satisfactory medical evidence for such absence using Attachment E in the case of a bargaining unit 2, 8 or 10 employee, or Attachment G in the case of a bargaining unit 1, 3, 4A, 6, 7 or 9 employee.

NOTE: When issuing a Request for Medical Verification (Attachment E) to a bargaining unit 2, 8 or 10 employee, the Confidential Illness Form (Attachment F) must also be included along with a copy of the employee's Form 30 or current job description.

All requests for medical evidence "shall be reduced to writing and shall cite specific reasons for request."

- d. If the illness or injury is identified as confidential in nature, a bargaining unit 2, 8 or 10 employee shall submit a completed confidential illness certification (Attachment F) from the attending medical provider.
- e. Employees must submit the original medical evidence for inspection, however, if requested a copy shall be provided to the employee. Failure to produce satisfactory medical evidence within seven (7) days (ten (10) days in the case of a bargaining unit 2, 8 or 10 employee) of its request shall result in the employee being denied sick leave for the absence and being placed off the payroll. In addition, disciplinary action may result.
- f. If an employee submits medical evidence which is deemed unsatisfactory, the employee

should be given notice as to the specific reason(s) that it was unacceptable. (see Attachment G.)

- g. All medical information submitted or gathered under this policy shall be kept in a secure and confidential manner so as to respect employees' rights to privacy.

209.07 **MEDICAL EXAMINATION**

1. A Superintendent, Division, Department or Unit Head may require that an employee undergo a medical examination to determine his/her fitness for work upon return to duty following sick leave in excess of five consecutive days. The employee, if he/she so desires, may be represented by a physician of his/her choice.
2. In cases where there is a dispute between the aforementioned parties over the results of a medical examination, the employee may be required to undergo a second examination administered by a physician representing the Department to determine the employee's fitness to return to work.

NOTE: In the case of a bargaining unit 1, 2, 3, 4A, 6, 7, 8, 9 or 10 employee, a Superintendent, Division, Department or Unit Head may require the employee to undergo a medical examination by an employer appointed physician to determine his/her fitness for work. The employee, if found unfit for duty and if he/she so desires, may then receive an examination by a physician of his/her choice. The employer shall bear the cost of the employee's initial examinations.

ATTACHMENT B

TO:

FROM:

DATE:

RE: Satisfactory Medical Evidence Request

Please be advised that our records indicate that you have used 48 hours of sick leave*.

Therefore, in accordance with the collective bargaining agreement, I am notifying you that you will be required to provide satisfactory medical evidence for **any absence (full or partial)** (this includes absences that exceed the provisions of your intermittent FMLA approval, if applicable) for the remainder of the calendar year.

This will be your only notification and it will be your responsibility to provide this evidence on the appropriate illness certification form (see attached) within 7 days of your absence. Failure to do so may result in disciplinary action up to and including termination.

***NOTE:** If you have exceeded your 48 hours of sick leave prior to receiving this notice, you are required to submit satisfactory medical evidence for any absence that has exceeded 48 hours.

ATTACHMENT C (BARGAINING UNITS 1, 2, 3, 4A, 6, 7, 8, 9 AND 10)

Dear:

I have completed a review of your attendance and I suspect that you may be abusing your sick leave. Your attendance record shall continue to be reviewed and if there is any further evidence that leads me to believe that such sick leave is being abused you may be required to submit satisfactory medical evidence. Failure to provide satisfactory medical evidence within seven (7) days (ten (10) days for employees in Units 2, 8 & 10) of its request shall result in your being denied sick leave for the absence.

Very truly yours,

Superintendent/Division Head

Employee Signature: _____ Date: _____

Witness: _____ Date: _____

ATTACHMENT D (Bargaining Unit 4)

Dear:

Article 8, Section 1 (K) of the collective bargaining agreement between the Commonwealth and the Massachusetts Correction Officers Federated Union provides the appointing authority can request satisfactory medical evidence in instances where probable cause exists to believe that sick leave is being abused.

As cause, therefore, the reason is as follows:

- The use of sick leave immediately following a dispute between you and a Supervisor.
- The use of sick leave on a day for which time off was requested and denied.
- The use of sick leave while you were observed in a circumstance that provides reason to believe that sick leave is being abused.
- Other _____

Pursuant to said provision, I am requiring the submission of satisfactory medical evidence of the following period:

Please note that Section 1(K) requires that employees submit an Illness Certification Form as satisfactory medical evidence. (See Attachments I and J of policy 103 DOC 209, the Massachusetts Department of Correction.)

Medical evidence with the stamped signature of the medical provider is acceptable if the stamped signature is initialed by someone in the medical provider's office authorized to initial said evidence.

Failure to provide satisfactory evidence within seven (7) days of this request will result in denial of the sick leave for the day(s) involved, and may result in disciplinary action.

Very truly yours,

Superintendent/Division Head

Employee Signature: _____ Date: _____

Witness: _____ Date: _____

cc: Personnel file

ATTACHMENT E (BARGAINING UNITS 2, 8 AND 10)

REQUEST FOR MEDICAL VERIFICATION FORM

Date: _____

Dear _____:

Pursuant to the provisions of Article 8 of the Agreement, it is requested that you submit satisfactory medical evidence for your recent time away from work on the following dates _____.

Medical verification is being requested because _____.

Failure to produce such medical evidence within ten (10) days of this request may result in denial of sick leave compensation for the following dates: _____.

In order to be considered satisfactory, the medical verification must include:

1. the date you were personally examined by your physician, physician assistant, nurse practitioner, chiropractor or dentist,
2. the nature of your illness or incapacity (confidential illness or injury requires completion of the confidential illness certification found on the back of this notice);
3. a statement that you were incapacitated from work due to illness or injury on the day(s) for which verification is requested;
4. the estimated date of your return to work; and,
5. the original signature of the health care professional who examined you on his/her letterhead containing his/her address and telephone number.

Please be reminded that failure to submit this medical verification may result in denial of sick leave compensation. If you have any questions, please contact me.

Sincerely,

Superintendent/Division Head

cc: Personnel file

ATTACHMENT F (BARGAINING UNITS 2, 8 AND 10)

CONFIDENTIAL ILLNESS CERTIFICATION

I, _____, as the medical provider for _____, have reviewed his/her position description (Form 30 or current job description) and certify that he/she was (circle one) unable / able to perform his/her duties on _____ because he/she was incapacitated by personal illness or injury.

After reviewing the attached Form 30 or current job description, the above referenced employee was unable to perform (specify the duty or duties that the employee could not perform).

This employee was / is capable of returning to work commencing _____.

Medical Provider

Print Name: _____

Signature: _____

Address: _____

Telephone#: _____

ATTACHMENT G (BARGAINING UNITS 1, 3, 4A, 6, 7, AND 9)

TO:

FROM:

RE: Submission of Medical Evidence

DATE:

Article 8, Section 1 of the collective bargaining agreement states in part:

"Where the Appointing Authority has reason to believe that sick leave is being abused, the Appointing Authority may require satisfactory medical evidence from the employee... Failure to produce such evidence within seven (7) days of its request may result, at the discretion of the Appointing Authority, in the denial of sick leave for the period of absence....."

Pursuant to the above cited language, I am requiring the submission of satisfactory medical evidence for the following period/reason(s):

Please note that Article 8, Section 1 states that satisfactory medical evidence shall consist of the following:

"A signed statement by a licensed physician, physician's assistant, nurse practitioner, chiropractor or dentist that he/she has personally examined the employee and shall contain the nature of the illness or injury, unless identified as being of a confidential nature; a statement that the employee was unable to perform his or her duties due to the specific illness or injury on the day(s) in question; and the prognosis for the employee's return to work. In cases where the employee is absent due to a family or household illness or injury, as defined in Article 8, satisfactory medical evidence shall consist of a signed statement by medical personnel mentioned above indicating that the person in question has been determined to be seriously ill and needing care on the days in question. A medical statement provided pursuant to Article 8 shall be on the letterhead of the attending physician or medical provider as mentioned above, and shall list an address and telephone number...."

Medical evidence with the stamped signature of the medical provider is acceptable if the stamped signature is initialed by someone in the medical provider's office authorized to initial said evidence.

Very truly yours,

Superintendent/Division Head

Employee Signature: _____ Date: _____

Witness: _____ Date: _____

cc: Personnel File

ATTACHMENT H (ALL BARGAINING UNITS)

TO:

FROM:

DATE:

RE: UNACCEPTABLE MEDICAL EVIDENCE

This is to advise you that the medical evidence you submitted on _____ for the following date(s) _____ of absence(s): _____ for personal/family illness is unacceptable, because it does not comply with Article 8, Section 1K, for the following reasons:

PERSONAL ILLNESS OR INJURY

- _____ Not signed by licensed physician, physician's assistant, nurse practitioner, chiropractor, or dentist or does not bear a stamped signature of the medical provider listed above initialed by someone in the medical provider's office authorized to initial said evidence.
- _____ Statement needed that you were personally examined.
- _____ Does not contain the nature of the illness or injury/or a statement by the medical provider that it is of a confidential nature.
- _____ Statement needed that you were unable to perform your duties due to specific illness or injury.
- _____ Needs prognosis for return to work.
- _____ Not on letterhead of the attending physician or medical provider.
- _____ No address/no telephone number listed.
- _____ Information submitted is not legible.
- _____ Other _____

FAMILY OR HOUSEHOLD ILLNESS OR INJURY (Article 8, Section 1C2)

- _____ Person listed is not spouse, parent of spouse, child, your parent or relative living in immediate household.
- _____ This absence(s) is in excess of thirty (30) days per calendar year.
- _____ Not signed by a licensed physician, physician's assistant, nurse practitioner, chiropractor, or dentist.
- _____ No statement that the person in question has been determined to be seriously ill and in need of care.

_____Not on letterhead of the attending physician or medical provider.

_____No address/no telephone number listed.

_____Information submitted is not legible.

_____Other_____

MEDICAL EVIDENCE

_____Medical evidence was submitted beyond seven (7) days (ten (10) days for Units 2, 8 & 10 employees).

Therefore, this absence will be considered unsatisfactory under the sick leave provisions of your Collective Bargaining Agreement unless additional information is provided within seven (7) days of receipt of this notice.

Employee Signature

Date

cc: Deputy
Director of Security
File

(*If a signature stamp is used, it must be accompanied by the initials of someone authorized to do so. Further, the original form must be submitted. If requested, a copy shall be provided to the employee.)

ATTACHMENT J (BARGAINING UNIT 4)

MASSACHUSETTS DEPARTMENT OF CORRECTION
ILLNESS CERTIFICATION FORM

FAMILY ILLNESS

TO BE COMPLETED BY MEDICAL PROVIDER (Additional information may be attached)

Medical Provider (print name): _____

Licensed Profession (circle one): licensed physician
 physician's assistant
 nurse practitioner
 chiropractor
 dentist

Address: _____

Phone Number: _____

Employee's Name: _____

Patient's Name and Relationship to Employee: _____

The patient has been determined by me to be seriously ill, or the appointment with the licensed medical or dental professional could not reasonably be scheduled outside of normal working hours for purposes of medical treatment or diagnosis of an existing medical or dental condition, and in need of care on _____.
(Date)

Signature of Medical Provider*

Date

(*If a signature stamp is used, it must be accompanied by the initials of someone authorized to do so. Further, the original form must be submitted. If requested, a copy shall be provided to the employee.)