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**COLLECTIVE BARGAINING CLARIFICATION LETTER**

**NO. 10-08-02**

To: All Labor Relations Officers and Personnel Officers  
From: Michael Duco, Deputy Director  
Date: August 24, 2010  
Subject: **OEA Article 31.02, FOP Article 38.02 and OSTA Article 44.02 HOLIDAY PAY ELIGIBILITY**

This clarification letter replaces letter 02-06-26. OCSEA and SEIU/1199 have been removed from the previous letter because the language was modified in the 2009-2012 agreements. Guidance on Holiday Pay Eligibility for OCSEA and SEIU/1199 can be found in clarification letter no. 10-08-01.

During recent contract negotiations the state obtained additional criteria regarding an employee's eligibility to receive holiday pay. This new language is intended to minimize the number of employees who attempt to extend their holiday absence by using sick leave instead of more appropriate forms of leave which require prior approval; or provide the ability for the employee to obtain holiday compensation not otherwise due.

The new language provides as follows:

Employees who are scheduled to work and call off sick **the day before, the day of<sup>1</sup>, or the day after** a holiday shall forfeit their right to holiday pay for that day, **unless there is documented, extenuating circumstances which prohibit the employee from reporting to duty.**

Employees who are scheduled to work and call off sick on the day before or the day after a holiday, and then work as required/scheduled on the holiday will be paid for the actual hours worked (see, Article 31.03, Article 38.03, and Article 44.03, respectively). Therefore, employees will be compensated at their discretion either at the rate of one and one-half (1 1/2) times their regular rate of pay or granted compensatory time. Employees **will not** receive straight time compensation for the actual holiday as they failed to meet the eligibility standard set forth in the new language. Further, employees may not substitute leave for the holiday in order to supplement their pay.

Employees who are not scheduled to work the holiday and call off sick on the day before or the day after the holiday will not receive holiday pay. Agencies have the discretion to determine whether extenuating circumstances exists. Agencies also have discretion in the situation of when an employee comes into work the day before, the day of, or the day after a holiday, and then goes home sick. Such decisions should be made on a case by case basis based on the totality of facts. Further as above, employees may not substitute leave for the holiday in order to supplement their pay.

Additional clarification is included in the 2006-2009 OCSEA Annotated contract located at <http://das.ohio.gov/Divisions/CollectiveBargaining/LaborRelationsandContractAdministration/BargainingContracts/tabid/173/Default.aspx>

As always, please contact your OCB Labor Relations Specialist with questions.

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<sup>1</sup>OEA members only forfeit holiday pay for calling off work the day of a holiday.