

THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
401 Golden Shore
Long Beach, California 90802-4210
(562) 951-4411

Date: February 23, 2006

Code: **TECHNICAL LETTER**
HR/Benefits 2006-04

To: Human Resources Directors
Benefits Officers

Reference: **HR/Benefits 2004-29**

From: Gina Caywood 
Interim Senior Director
Human Resources Administration

Subject: **Temporary Disability Allowance While on Involuntary Leave (AB 908) – Revised Notice Requirements for Academic Professionals of California (Unit 4) Employees**

In 2004, Technical Letter HR/Benefits 2004-29 was released providing campuses with guidelines to implement the temporary disability allowance (TDA) while on involuntary leave pursuant to Assembly Bill (AB) 908. The California State University (CSU) and the Academic Professionals of California (APC) recently completed negotiations on revised notice requirements for APC-represented employees. Campuses are to implement the following revised notice requirements for APC-represented employees immediately. Please note that changes have been highlighted for ease of administration.

Revised Notice Requirements for APC-Represented (Unit 4) Employees

AB 908 requires that after a campus considers the conclusions of appropriate medical documentation from an employee's physician or other pertinent information and determines an employee is unable to perform the duties of his/her position or any other position with the university, and the employee is eligible for, and does not waive the right to, retire for disability, the campus shall file an application for disability on behalf of the employee. Prior to submitting the application, the campus must give the employee 15 days written notice of its intention to file the application and a reasonable opportunity for the employee to respond prior to the filing of the application and placing the employee on involuntary leave. The notice shall be sent certified mail with a return receipt requested to the employee's last known home address. The notice shall state the campus' intent to file an application for disability retirement on the employee's behalf, state whether the employee will be placed on involuntary leave, and provide information on applicable leave credits and/or benefits programs available to the employee. If the employee is out of leave credits and/or has exhausted his/her benefit programs, the employee is eligible for a TDA. The employee shall have seven (7) days from the date the notice was received at the employee's last known home address to respond.

Distribution:

CSU Presidents
Executive Vice Chancellor and CFO
Vice Chancellor, Human Resources
Associate Vice Presidents/Deans of Faculty
Budget Officers

Employee Relations Designees
Director, SOSS
Payroll Managers

The campus shall review the employee's response, which may be in writing or result from an in-person meeting, and provide the employee with a written response prior to or contemporaneously with filing the application for disability retirement. If the campus is unable to review the employee's response prior to the end of the 15 day notice requirement, the campus shall wait until completing its review prior to filing the application for disability. Please note that the decision to file the application is final and is not appealable to the State Personnel Board. A draft notice to the employee is provided as Attachment A.

All other provisions of HR/Benefits 2004-09 are applicable.

Questions regarding this Technical Letter may be directed to Pamela Chapin in Human Resources Administration at (562) 951-4414 or via email at: pchapin@calstate.edu. This Technical Letter is also available on the Human Resources Administration's Web site at: <http://www.calstate.edu/HRAdm/memos.shtml>.

GC/pc
Attachment

**NOTICE LETTER REQUIRED BY EDUCATION CODE 89536.1(a)
REVISED UNIT 4 LETTER
(If the campus wishes to place the employee on Involuntary Leave)**

(DATE)

(EMPLOYEE'S NAME)

(ADDRESS)

(CITY, STATE, ZIP CODE)

Dear (NAME):

This is to notify you that pursuant to Education Code 89536.1, on (DATE [15 days from the notice]) [CAMPUS] will apply to California Public Employees' Retirement System (CalPERS) for disability retirement on your behalf. It has been determined that you are unable to perform the duties of your current position or any other position within the university. This decision is based on the [DATE] medical report by [DOCTOR'S NAME] (or other pertinent information).

As provided in Education Code 89536.1, you have the right to respond to (CAMPUS) prior to the filing of your application for disability retirement. Please contact (CAMPUS) within seven (7) days after the date of mailing of this notice if you wish the opportunity to explain why you disagree with the intended action. (The date of mailing is shown on the attached proof of service.)

You will be placed on involuntary leave (IL) while awaiting a decision from CalPERS on your disability retirement. You are eligible to receive a Temporary Disability Allowance (TDA) if your leave credits and/or other available program(s) have been exhausted or if they do not provide pay at least equal to your estimated retirement allowance. If you elect not to use available leave credits or participate in an appropriate disability program, you will not be entitled to receive a TDA. The campus will continue to make employer contributions to your health, dental, and vision plan (Life Insurance and/or Long Term Disability (LTD) plans, if eligible) during the IL period.

If you elect payment for your available leave credits, it shall be considered regular pay. If applicable, state and federal income taxes, Social Security/Medicare contributions, and retirement contributions will be deducted. Your voluntary deductions will continue provided there is enough net pay to take the deductions and you do not cancel them. If your leave credits generate a qualifying pay period, you will receive State service credit for seniority purposes, leave credit accruals, and any salary changes in effect.

Payment for any available program i.e., [NON-INDUSTRIAL DISABILITY LEAVE OR INDUSTRIAL DISABILITY LEAVE] is subject to program provisions and you are eligible to receive all the benefits the program provides.

If you are only eligible to receive payment for TDA without payment of leave credits and/or a benefit program, you are considered to be on a temporary separation. Your TDA payments are subject to mandatory deductions that include State and federal income taxes, and Social Security/Medicare contributions. Retirement contributions will not be deducted nor will the

TECHNICAL LETTER
HR/Benefits 2006-04
ATTACHMENT A

employer's contribution be made while receiving payment of your TDA. [Your union dues/fair share fees will be deducted from your TDA payment (if represented).]

TDA is an interim allowance paid while a decision for disability retirement is being made. Voluntary deductions will continue providing that there is enough net pay to take them. Retired employees, typically, do not have voluntary deductions taken from their retirement benefits unless approved by CalPERS. It is recommended that you provide [campus contact] with a decision on whether you elect to continue your voluntary deductions while waiting for your CalPERS disability retirement decision.

If your application for disability retirement is granted, the retirement system will reimburse the campus for the TDA payments you received. The payments will be deducted from the retroactive portion of your disability retirement allowance which would otherwise be payable to you.

If your application for disability retirement is denied, you will be reinstated to your position pursuant to Education Code 89536.1(c) and paid the difference between the TDA payments you received and any salary you may have received during the period you were on IL. Any voluntary deductions that were cancelled will need to be reestablished. Any leave credits used during the period of your IL will be restored to your leave credit account. You will receive service credit for retirement, qualifying pay periods, full State service credit for seniority purposes, leave credit accruals, and any salary changes in effect during the period you were placed on IL. The campus may be eligible for certain salary offsets under the law, as well.

Disability retirement is considered a temporary separation. CalPERS may determine at a later date that you are able to return to work. For more details or information regarding disability retirement, you may contact CalPERS directly at (800) 352-2238.

Attached is a selection form [CAMPUS TO DEVELOP] that provides your accrued leave credits and information regarding [AVAILABLE PROGRAM, if any]. Please review and select the option of your choice. Upon making your selection, please return the option form to [CONTACT NAME AND ADDRESS] by [DATE]. If you elect not to use your available leave credits, and/or to participate in the available program, or if you do not respond with an election, you will be placed on involuntary leave without TDA payments. However, your health, dental, and vision coverage [and employer-paid supplemental benefits, if eligible,] will be continued.

During your period of involuntary leave, we will provide assistance and answer any questions you may have regarding your disability retirement status. We recognize that we are providing a great deal of information and that you will be making important decisions. If you need additional assistance/information, or if you need clarification of your options, please contact me at [AREA CODE - NUMBER].

Sincerely,

Attachment