

CITY OF SAN ANTONIO



Administrative Directive	AD 4.18 Disability Plan
Procedural Guidelines	Guidelines to ensure consistent application of the City's Disability Plan
Department/Division	Human Resources, Employee Benefits Division
Effective Date	January 1, 1985
Revision Dates	October 1, 1987; April 1, 1991; September 26, 2014; March 5, 2015
Review Dates	March 5, 2015
Project Manager	Human Resources, Employee Benefits Administrator

Purpose

The purpose of this administrative directive (AD) is to provide guidance to employees of the City of San Antonio (City) in application and administration of the Disability Plan (Plan). The Plan, adopted by City Council through Ordinance No. 59309 and amended through Ordinance No. 65681, provides both short term disability and long term disability benefits. This directive will provide the necessary information concerning administration and benefit provisions of the Plan.

Policy

It is the policy of the City of San Antonio (City) to provide disability benefits through the provisions of this administrative directive. Employees who are covered by a collective bargaining agreement with the City are not eligible for the Plan. The City reserves the right to terminate the Plan, in whole or in part, at any time.

Policy Applies To

<input type="checkbox"/> External & Internal Applicants	<input type="checkbox"/> Non-Exempt Temporary Employees
<input checked="" type="checkbox"/> Full-Time Employees	<input type="checkbox"/> Volunteers
<input type="checkbox"/> Part-Time Employees	<input checked="" type="checkbox"/> Grant-Funded Employees
<input type="checkbox"/> Paid and Unpaid Interns	<input checked="" type="checkbox"/> Police and Fire Academy Trainees
<input type="checkbox"/> Uniformed Employees Under Collective Bargaining Agreements	

Definitions

<u>Eligible Employee</u>	A newly hired, regular, or full time Civilian employee who has completed 6 months of service.
<u>Applications for Benefits</u>	In order to be considered for benefits under the Plan, an employee must complete the required application form and submit the form along with the required medical certification to the department's Human Resource Representative.
<u>Cause of Action</u>	The Employee's right to sue another person for an illness or injury of the employee caused by such other person.
<u>Compensation</u>	Compensation for purposes of this administrative directive is not increased by step pay increases, cost of living adjustment (COLA) increases, or performance pay increases, which is considered upon return to work. Compensation does not include overtime, language skill pay, certification pay, longevity pay, merit pay, shift differential, premium pay or any other form of supplemental income, and does not include any kind of incentive or allowance payments.

<u>Exclusions from Coverage</u>	<p>The Plan shall not provide benefits for disabilities resulting from the following causes:</p> <ol style="list-style-type: none"> 1. Intentionally self-inflicted injuries 2. Active participation in a riot 3. Service in the armed forces 4. Declared or undeclared war or any act thereof 5. The commission of a criminal or public offense for which the employee has been convicted 6. Any injury or disease resulting from or sustained while working for any employer other than the City 7. Any injury or disease first diagnosed or discovered subsequent to a former employee's date of termination 8. Cosmetic surgery 9. Acts of terror
<u>Health Care Provider</u>	<p>Shall mean a <i>health care provider</i> as defined by the Family Medical Leave Act of 1993.</p>
<u>Qualifying Disability</u>	<p><i>Qualifying disability</i> means a non job-related physical or mental illness or injury, not appearing in the <i>exclusions from coverage</i> definition, where the employee is:</p> <ol style="list-style-type: none"> 1. Completely and continuously <u>unable</u> to perform the essential functions of his/her <i>regular occupation</i> 2. Receiving treatment for the disabling condition under the care of a <i>health care provider</i>, other than him/herself 3. Not gainfully employed in any occupation for which he/she is or becomes qualified by education, training, or experience <p>An individual continues to be considered disabled after 52 weeks of short and long term disability if he or she is receiving treatment for the <i>qualifying disability</i> condition and under the <i>regular care</i> of a <i>health care provider</i>, other than him/herself. The <i>health care provider</i> must attest to the person being <u>unable</u> to engage in <u>any</u> occupation for which he/she is or becomes qualified by education, training, or experience.</p>
<u>Mental Disability</u>	<p>A disability caused by mental illness including neurosis, psychoneurosis, psychosis, or other mental disease or disorder, functional nervous disorder or chemical dependency or alcoholism, subject to the limitations defined herein.</p>
<u>Mental Illness Disability Limitation</u>	<p>Benefits for disabilities due to mental illness will not exceed twenty-four (24) months of monthly benefit payments unless the employee meets one of these situations:</p> <ol style="list-style-type: none"> 1. The employee is in a hospital or institution at the end of the twenty-four (24) month period. The monthly benefit will be paid during the confinement. If the employee is still disabled when he/she is discharged, the monthly benefit will be paid for a recovery period of up to 90 days. If the employee becomes reconfined during the recovery period for at least fourteen (14) consecutive days, benefits will be paid for the confinement and another recovery period up to ninety (90) more days. 2. The employee continues to be disabled and becomes confined: <ul style="list-style-type: none"> • After the twenty-four (24) month period, and • for at least fourteen (14) days in a row, the monthly benefit will be payable during the confinement <p>Notwithstanding anything in this section, in no event shall benefit payments exceed the duration of payments set forth in the schedule for continued long term disability of the Plan.</p>
<u>Plan Administrator</u>	<p>Human Resources Director, or designee.</p>
<u>Qualifying Period</u>	<p>The first forty (40) consecutive working hours that an employee is off work for a <i>qualifying disability</i>. During this time, the employee does not receive disability benefits and shall utilize leave or receive leave without pay. If a holiday falls within the <i>qualifying period</i>, the holiday shall be included as one of the 5 qualifying days.</p>

<u>Regular Care</u>	<i>Regular Care</i> means the employee personally visits a licensed <i>health care provider</i> as frequently as is medically required according to generally accepted medical standards to effectively manage and treat the disabling condition(s). In addition, the employee is receiving appropriate treatment and care which conforms with generally accepted medical standards for the disabling condition(s) from a <i>health care provider</i> , other than him/herself, whose specialty or experience is the most appropriate for the disabling condition(s) according to generally accepted medical standards.
<u>Regular Occupation</u>	The City's job title held by the employee prior to his/her <i>qualifying disability</i> .
<u>Rehabilitative Employment</u>	Any employment aimed at assisting the employee's rehabilitation.
<u>Subrogation</u>	Where the <i>qualifying disability</i> , for which benefits are paid under this Plan, is caused or contributed to by the tortious act of another person, the employer receives the right to the reimbursement of the entire benefits paid under this Plan. To this limited extent, the employer is assigned the employee's said <i>cause of action</i> , and is entitled to first monies received from any settlement or judgment from such other person.

Policy Guidelines

<u>Benefits</u>	<p>An <i>eligible employee</i> experiencing a <i>qualifying disability</i> may apply for coverage under the Plan. The percentage of income replacement received under the Plan will be supplemented by accrued leave. Beginning with the <i>qualifying period</i>, an employee's accrued leave will be used in the following order: 1) Personal Leave, 2) Banked or Floating Holidays, 3) Incentive Leave, 4) Compensatory (Comp) Time, and 5) Annual Leave. If, after satisfying the <i>qualifying period</i>, no other leave is available, the employee can use Banked Sick Leave. All leave must be exhausted before an employee receives leave without pay. In no case will the employee receive more than 100% of his/her <i>compensation</i>. An employee off work due to an illness or injury should continue to follow departmental attendance procedures unless approved for short term disability. An employee who is approved for short or long term disability must continue to call in to his/her supervisor once every two weeks, or on a schedule as requested by the supervisor. An employee's FMLA twelve (12) week leave entitlement shall run concurrently with short or long term disability if the employee is eligible.</p> <p><u>Short Term Disability:</u> Employees can apply for short term disability by submitting a completed <i>Disability Application</i> and the <i>Medical Certification Form</i> within 30 days of the onset of the <i>qualifying disability</i>. Applications may be submitted in advance where circumstances permit (prescheduled hospitalization, surgeries, etc.). An updated <i>Medical Certification Form</i> may be periodically requested thereafter, as deemed necessary by the <i>Plan Administrator</i>. Failure to submit the application within 30 days may result in denial of benefits. In no case will benefits be paid retroactively beyond 30 days. Employees on approved short term disability shall continue to accrue Annual Leave and Personal Leave and shall receive holiday pay. Benefit payments will be made in accordance with normal payroll procedures. Approved benefits shall begin after the <i>qualifying period</i> defined herein.</p> <p>The amount of benefits shall be determined according to the following schedule:</p> <p style="text-align: center;"># of Weeks of Short Term Disability Benefits</p> <p style="text-align: center;"><i>% of Compensation</i></p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th><i>Years of Service</i></th> <th>100%</th> <th>80%</th> <th>60%</th> <th>50%</th> <th>40%</th> </tr> </thead> <tbody> <tr> <td>6 months, but less than 1 year</td> <td></td> <td></td> <td>6</td> <td>7</td> <td>13</td> </tr> <tr> <td>1 year, but less than 5 years</td> <td></td> <td>4</td> <td>9</td> <td>13</td> <td></td> </tr> <tr> <td>5 years, but less than 10 years</td> <td>2</td> <td>4</td> <td>8</td> <td>12</td> <td></td> </tr> <tr> <td>10 years but less than 15 years</td> <td>4</td> <td>9</td> <td>13</td> <td></td> <td></td> </tr> <tr> <td>15 years or more</td> <td>6</td> <td>7</td> <td>13</td> <td></td> <td></td> </tr> </tbody> </table> <p><i>Example:</i> an employee with 1 year of service receives 4 weeks of benefits at 80%, 9 weeks of benefits at 60% and 13 weeks of benefits at 50%. The employee shall no longer receive short term disability benefits after twenty-six (26) weeks.</p>	<i>Years of Service</i>	100%	80%	60%	50%	40%	6 months, but less than 1 year			6	7	13	1 year, but less than 5 years		4	9	13		5 years, but less than 10 years	2	4	8	12		10 years but less than 15 years	4	9	13			15 years or more	6	7	13		
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Benefits, cont.

Long Term Disability:

An *eligible employee* who has exhausted 26 weeks of short term disability and remains ill or injured and unable to work may apply for long term disability benefits. The employee should contact the department's Human Resources Representative for the *Medical Certification Form*. The employee should submit the form as soon as the employee has knowledge he/she will be off work more than 26 weeks, but should be no later than the 24th week of receiving short term disability. An updated *Medical Certification Form* may be periodically requested thereafter, as deemed necessary by the *Plan Administrator*.

Long term disability benefits shall be equal to 40% of the employee's *compensation* at the time the short term disability commenced for a period not to exceed 26 weeks. Employees who purchased additional long term disability benefits prior to the onset of their *qualifying disability* shall have their benefits increased from 40% to 60%. Employees can elect to purchase additional long term disability benefits each year during the City's Open Enrollment period.

Benefit payments will be made once per month on the last pay date of the month. Employees on long term disability discontinue accruing Annual Leave, Personal Leave, and holidays and are not able to participate in the Personal Leave buy-back program while on long term disability. While on long term disability, the City does not make contributions to the Texas Municipal Retirement System (TMRS) on employees' behalf, and employees do not accrue TMRS service time.

Any employee who remains on long term disability beyond 26 weeks and for whom a reasonable accommodation does not exist will be terminated through normal procedures, although he/she may be entitled to continued benefits. Individuals under these circumstances would be required to submit a new application for employment in order to return to work for the City.

Qualifying Disabilities that continue beyond 52 weeks (continued long term disability):

An individual who has been on disability beyond 52 weeks (26 weeks of short term and 26 weeks of long term disability) may continue to qualify for long term disability benefits if they submit a *Medical Certification Form* attesting that he/she is unable to engage in any occupation for which he/she is or becomes qualified by education, training, or experience. An updated *Medical Certification Form* may be periodically requested thereafter, as deemed necessary by the *Plan Administrator*. An employee who purchased additional long term disability benefits prior to the onset of the *qualifying disability* shall have benefits continue at 60% of his/her *compensation*.

Approved benefit payments shall be payable to the maximum benefit period outlined below:

<i>Age at Qualifying Disability</i>	<i>Duration of Benefits*</i>
Age 61 or less	Payable to age 65
Age 62	3-1/2 years
Age 63	3 years
Age 64	2-1/2 years
Age 65	2 years
Age 66	21 months
Age 67	18 months
Age 68	15 months
Age 69	12 months or age 70

* *Mental illness disability* benefits are subject to the limitations defined herein.

Recurring Disabilities:

If an employee has more than one period of *qualifying disability* due to the same recurring condition, the periods shall be bridged and considered one *qualifying disability* unless the employee has returned to work for more than 12 months from the first day of the *qualifying period* for the *qualifying disability*. The employee shall not be required to serve a second *qualifying period* if the *qualifying disability* is determined to be a recurrence by the *Plan Administrator*. The *Plan Administrator* shall return the employee to the Plan at the last level of *compensation*.

If an employee returns to his/her **regular occupation** on a full-time basis for one year, a recurring disability will be treated as a new period of total disability. The employee must complete another **qualifying period**.

Multiple Conditions:

If an employee is disabled for multiple conditions while on one continuous period of approved disability leave, the disabling conditions shall be considered one **qualifying disability**.

Review of Medical Certification:

The **Plan Administrator** may, at any time, consult with a licensed physician selected by the City regarding an employee receiving short or long term disability benefits. The selected physician may contact the attending physician for additional information needed to evaluate the employee's **qualifying disability**. If it is determined that the employee is able to work, disability benefits will cease and the employee's supervisor shall notify the employee to return to work. Failure to submit to an interview or medical examination will result in the immediate termination of disability benefits.

Benefits Coordination:

Benefits payable under this AD shall be reduced by income received from the following sources:

1. The amount of any primary disability or retirement benefits the employee is eligible to receive under the Federal Social Security Act
2. Sixty percent of the net earnings received through **rehabilitative employment**
3. Retirement benefits received from the Texas Municipal Retirement System (TMRS)
4. Workers' Compensation Law, Occupational Disease Law, or any act or law of similar intent. The periodic benefit from the Plan will not be further reduced due to cost of living increases payable under these income benefits.

If the employee has received a one-time lump-sum payment from any of the sources listed above, the payment will be allocated as if the employee had received it on a periodic basis. The City will rely on data from the source making the one-time lump-sum payment to determine the manner and amounts of the allocation. The City will be held harmless from acting on such data.

Benefits, cont.

Individuals receiving benefits under the Plan agree to the City's right of **subrogation**.

Requirement to apply for Retirement Benefits:

An employee with qualifying disabilities that continue beyond 52 weeks and who is eligible to receive service and/or disability retirement benefits through TMRS shall apply for benefits. If the employee does not apply for retirement benefits, the **Plan Administrator** will assume the employee is eligible and receiving such benefits; thus, an estimated retirement benefits offset will be made from the employee's long term disability benefits even if he or she has not applied for retirement benefits.

Requirement to apply for Social Security Benefits:

After four months of continuous total disability, an employee should apply for Social Security benefits. If the employee does not apply for Social Security benefits, the **Plan Administrator** will assume the employee is eligible and receiving such benefits; thus, an estimated Social Security offset will be made from the employee's long term disability benefits even if he or she has not applied for Social Security benefits.

If the application for Social Security benefits is denied by the Social Security Administration, the employee is required to submit an application for reconsideration at his or her local Social Security office. If the reconsideration request is denied, the employee is required to request a hearing before an Administrative Law Judge. If the employee fails to file for reconsideration or for a hearing before an Administrative Law Judge, the **Plan Administrator** will assume the employee is eligible and receiving Social Security benefits and an estimated Social Security benefit amount will be offset from the monthly long term disability benefit.

If Social Security benefits are awarded retroactively they will be offset from the monthly long term disability benefit retroactively and the **Plan Administrator** shall have the right to recover the overpayment from the employee.

<u>Under or Overpayment of Benefits</u>	<p>If benefits have been <i>underpaid</i>, the amount necessary to adjust the total payments to the amount which should have been paid will be paid.</p> <p>If benefits have been <i>overpaid</i>, the overpayment must be refunded to the City on behalf of the employee. The City may, at its discretion, reduce or eliminate future payments instead of requiring repayment in one sum. No minimum benefit is guaranteed during the period of repayment.</p>
<u>Termination of Employment</u>	<p>Employment with the City shall terminate after any of the following events:</p> <ol style="list-style-type: none"> 1. The employee exhausts the maximum length (52 weeks combined total) of short and long term disability and is still not expected to return to regular duty based on medical documentation 2. The employee resigns or retires <p>Individuals will cease to be covered under the Plan, and will have their employment with the City terminated under the following events:</p> <ol style="list-style-type: none"> 1. Failure to follow call-in procedures as instructed 2. Failure to report for full duty and/or modified work assignment when released by the <i>health care provider</i> 3. Violation of any City rules or regulations which normally result in an employee's termination 4. Gaining a new source of permanent income or gainful employment 5. Engaging in outside employment, either part-time or full-time for self, another person, firm, or company while on disability leave (unless part of an authorized Plan rehabilitative program) 6. Refusal to follow the guidelines outlined in this AD or other applicable ADs, laws or regulations 7. Falsification or misrepresentation of the injury, illness or condition 8. Refusal to participate in rehabilitation or the City's Modified Work Assignment Program <p>Under no circumstances will an individual remain employed with the City beyond the maximum length (52 weeks) of short and long term disability benefits.</p>
<u>Appeal</u>	<p>The employee may appeal denial of short or long term disability benefits. If a claim for benefits under this Plan is denied, the <i>Plan Administrator</i> shall provide notice to the employee, in writing, within sixty (60) days after the claim is filed. The notice shall set forth (i) the reason(s) for the denial; (ii) the reference(s) to the pertinent Plan provisions for which the claim is denied; (iii) if applicable, a description of any additional materials or information necessary for the participant to perfect the claim and an explanation as to why such information is necessary; and (iv) provide an explanation of the Plan's claim.</p> <p>Within sixty (60) days after receipt of the denial, the participant or his/her representative may appeal the denial to the <i>Plan Administrator</i>. The appeal must be submitted in writing.</p> <p>A decision by the <i>Plan Administrator</i> will be made no later than sixty (60) days after receipt of the appeal. If additional time is required, the <i>Plan Administrator</i> will notify the appellant in writing.</p> <p>The employee shall not receive any benefits until completion of the appeal process.</p>
<u>Severability</u>	<p>If any provision of the Plan is held invalid or unenforceable, its invalidity or unenforceability shall not affect any other provisions of the Plan, and the Plan shall be construed and enforced as if such provision had not been included herein.</p>

Roles & Responsibilities

<u>Employees</u>	<ol style="list-style-type: none"> 1. Follow all provisions of this AD 2. Submit required applications for benefits 3. Provide necessary medical documentation, and be responsible for any associated fees charged for completing the necessary documentation and certifications 4. Contact their departmental Human Resources Representative and provide notice of their ability to be assigned to the Modified Work Assignment Program prior to the date of release by their <i>health care provider</i> 5. Notify supervisors of any change in return to work status 6. Notify the <i>Plan Administrator</i> of any medical changes
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<p><u>Employees, cont.</u></p>	<ol style="list-style-type: none"> 7. Cooperate with the <i>Plan Administrator</i> in carrying out the procedures outlined in this AD, to include but not be limited to, signing of medical releases or cooperating with the City’s Modified Work Assignment Program when available 8. Make arrangements with the Human Resources Representative for any City sponsored health plan premiums (i.e. medical, dental, vision) while on disability leave 9. If an employee is a member in other voluntary health plans, or has other coverage, memberships, payments, or dues deducted from a payroll check, the employee must contact that carrier directly for information for arranging payments while on inactive status. Payment of medical plan premiums remains the employee’s responsibility to avoid termination of coverage.
<p><u>Human Resources</u></p>	<p>Human Resources shall ensure an employee is not terminated for exhausting benefits under the disability plan without first having participated in the interactive process as described in AD 4.62, Reasonable Accommodations for Disabled Applicants and Employees.</p> <p><u>Plan Administrator:</u></p> <ol style="list-style-type: none"> 1. Adhere to the provisions of this AD 2. Verify employee eligibility and approve benefits when appropriate 3. Have the employee examined by a licensed physician selected by the City should there be a question concerning the application for benefits or attending physician’s medical certification/statement; 4. Notify the employee’s department of approval/disapproval of benefits under the Plan 5. Coordinate consideration of the employee who is approved for short term disability for a modified work assignment 6. Make and enforce rules and regulations as deemed necessary or proper for the efficient administration of the Plan 7. Make final and binding interpretations of the Plan 8. Decide all questions concerning the Plan and the eligibility of any person to participate in the Plan and to receive benefits provided under the Plan <p><u>Department’s Human Resources Representative(s):</u></p> <ol style="list-style-type: none"> 1. Verify the percentage of benefits to which the employee is entitled based upon years of service 2. Remind employees they are about to exhaust short term disability at 20 weeks of short term disability 3. Ensure an employee’s FMLA twelve (12) week leave entitlement runs concurrently with short or long term disability 4. Make adjustments to benefits paid as provided for in the Policy Guidelines within this AD 5. Remove the employee from active payroll at the expiration of 26 weeks of short term disability 6. Provide the Time Administrator with the leave type and hours to be charged for the <i>qualifying period</i>. No leave without pay shall be used for the <i>qualifying period</i> unless all Annual Leave, Personal Leave, and Compensatory Time have been exhausted. 7. Provide the Time Administrator with the type of leave to be used until Plan Benefits are approved. If approved retroactively, the department’s Human Resources Representative must complete a one-time adjustment to restore leave hours or pay 8. Supplement Personal Leave, Annual Leave, Compensatory Time, Banked Sick Leave or holiday leave remaining to the long term disability benefits 9. Discontinue the employee’s accrual of Annual and Personal Leave at the expiration of 26 weeks of short term disability benefits 10. Disallow the employee to sell back Personal Leave while on long term disability benefits 11. Terminate the individual’s employment at 52 weeks of disability benefits, or sooner, where warranted
<p><u>Departments</u></p>	<ol style="list-style-type: none"> 1. Ensure employees read this AD and sign the attached Acknowledgement Form (Attachment A) 2. The Acknowledgement Form, and any medical documentation or forms shall be forwarded to Human Resources for processing and filing in the employee’s personnel file

<p><u>Managers and Supervisors</u></p>	<ol style="list-style-type: none"> 1. Inform the department’s Human Resources Representative when they become aware an employee may have a <i>qualifying disability</i> 2. Inform the department’s Human Resources Representative when an employee has been released by his/her <i>health care provider</i> to return to work with any limitations or restrictions 3. Ensure the employee reports to Human Resources upon returning to work or reporting for a modified work assignment 4. Remain knowledgeable about the status of an injured or ill employee via frequent contact with the employee, Human Resources, and any other source(s), as necessary
<p><u>Finance</u></p>	<p><u>Time and Attendance Specialists:</u></p> <ol style="list-style-type: none"> 1. Process the time entry for any employees on disability leave within the department for which they provide time entry 2. Ensure employees on short and long term disability do not accrue shift differential, overtime, boot or clothing allowances, language skills pay, or certification pay while on disability without advance authorization from Human Resources.

This directive supersedes all previous correspondence on this subject, and replaces the “Extended Sick Leave Program.” Information and/or clarification may be obtained by contacting the Human Resources Department, Employee Benefits Division.



CITY OF SAN ANTONIO

EMPLOYEE ACKNOWLEDGMENT FORM FOR

ADMINISTRATIVE DIRECTIVE 4.18 Disability Plan

Employee:

I acknowledge that on _____, 20____, I received a copy of Administrative Directive 4.18, Disability Plan. I understand if I should have any questions I should contact my Human Resources Representative.

Employee Name (Print)

Department

Employee Signature

Employee SAP ID Number