

WAC 415-105-040 Disability leave. (1) The applicant must prove the existence of:

(a) A disabling condition; and
(b) Whether or not the condition was incurred in the line of duty.

(2) The application must include the name of each physician contacted by the applicant within the last six months for the disabling illness or injury. The applicant must advise each examining physician that:

(a) The board has requested the evaluation;
(b) Any reports of the evaluation will be reviewed by the board;
(c) That the doctor-patient privilege may not be invoked with respect to the evaluation; and
(d) The physician may be requested by the board to testify as to his or her findings.

(3) The disability board is authorized to demand the appearance of the applicant and to request the appearance of any other persons it deems appropriate.

(4) Following receipt of an application for disability benefits, the board must:

(a) Review the application and all relevant information about the applicant's fitness for duty;
(b) Consider the duties of the applicant's position; and
(c) Consider any other pertinent evidence.

The board must either grant or deny disability leave based on the evidence or continue the matter pending receipt of additional information.

(5) If the information before the board is insufficient to determine whether or not the applicant is disabled, the matter can be continued to the next regular meeting or set for consideration at a special meeting. The board must advise the applicant of:

(a) The additional information needed;
(b) The applicant's obligation to provide the additional information; and
(c) The date by which the information must be provided.

(6) The applicant may waive any or all of the disability leave granted pursuant to RCW 41.26.120(4) and 41.26.125(4).

(7) The board is not to use the minimum medical and health standards (MMHS) to determine whether or not an applicant is unfit for duty. The MMHS established pursuant to RCW 41.26.046 govern entry or re-entry into LEOFF System membership and were provided only to safeguard the fiscal integrity of the pension system.

[Statutory Authority: RCW 41.50.050. WSR 99-16-075, § 415-105-040, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. WSR 81-23-032 (Order 81-03), § 415-105-040, filed 11/16/81.]