

KNOW YOUR CA

Illness and Disability

By Ramneek Pooni
Member Services Officer, QUFA

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Many of you will be touched by illness or disability, perhaps for a short period of time rather than on an

ongoing basis, sometimes without the need for workplace accommodation, and usually unexpectedly. This KYCA is intended to inform you about some of the rights you have and of the services you may avail yourself of should you be affected while working at Queen's University.

This is not a comprehensive explanation, and QUFA urges you to call the office if you are unsure or have questions. Each of you will handle the situation in your own way given the specifics of your condition, what your job is, and who you are. From QUFA's and the University's perspective, it is almost always easier to sort out issues and accommodations early on rather than to attempt repairs after things have gone awry. Please keep in mind that QUFA will not know that you are on Sick Leave or Long-Term Disability (LTD) or that you require a workplace accommodation unless you tell us or you give someone else written permission to communicate with us and they do so.

Sick Leave (Article 33.2.3)

Sick Leave is an entitlement under the Collective Agreement (CA), which means that if you need it and ask for it, you will get it. You will have to inform the head of your academic unit (or the dean in non-departmentalized faculties) in a timely fashion. This must be an active step on your part, particularly for faculty members, as you may not be in the office or lab and may not normally see your academic unit head (or dean) for days or longer periods at a time. E-mail, if possible, is often better than a phone call because it can be tracked and referred to in the future, and thus will avoid potential misunderstandings. You must be clear that it is a Sick Leave you are requesting and that you are not just telling someone that you are not feeling well.

Librarians and Archivists, who must normally attend daily at the office, usually cannot work from home and so must make their supervisors aware that they will be off sick. Faculty members, on the other hand, can often be sick and not require a formal sick day or leave because they can arrange their work so that it is relatively unaffected, perhaps rescheduling a class or putting longer hours into research before or after the time they are ill.

For Sick Leave of any protracted period—for example, two weeks or more—you should provide medical documents to support your claim. This is usually a letter from a doctor, but in some circumstances it may

make sense that it come from a different health professional. This letter from a health professional and other documentation should *not* be submitted to your academic unit head (or dean). It should be sent to the Health and Wellness Programmes and Services point person in Queen's Human Resources (HR), who is currently Shannon Jones. If it seems that your Sick Leave will likely extend beyond a month, you should also get in touch with Shannon yourself to ensure compliance with any other requirements for your Sick Leave. She may request more information from your health professional: each case is different.

Shannon will keep your documents and correspondence in a secure and confidential file to avoid any inadvertent inclusion in your regular personnel file. While it is not mandatory, QUFA suggests that you get in touch with QUFA staff as well, giving us whatever information you think necessary in case we need to intervene on your behalf. Shannon and QUFA staff are well versed in privacy and confidentiality, so it would be helpful if you gave permission for us to speak to each other about your situation should that become necessary.

You are entitled to Sick Leave for up to six consecutive months at a time. To qualify for another Sick Leave, you must be back at work for at least six consecutive months. After approximately two months of Sick Leave, and assuming that they know that you are on Sick Leave, HR will automatically send you an LTD

application to be filled out by you and your health professional. This precautionary procedure is to ensure that you do not experience a gap without pay should your illness extend beyond six months. If you do not need LTD, then the application will be considered withdrawn. You should be aware that such a withdrawal will not go against you in the future should you have to apply for LTD again. If you do go on LTD, then Great West Life may request additional medical documentation during the time you are on LTD.

Pay during Sick Leave is your full salary amount and paid to you by Queen's University. LTD pay comes from the insurer, Great West Life. Please check with HR to see whether you have the LTD benefit. Before the current Collective Agreement 2008-2011, contribution to LTD was optional rather than mandatory. If you do not have the LTD benefit, then you may be forced to take an unpaid leave of absence if your illness requires a leave greater than six months. If you fall into the latter group, please contact QUFA as soon as possible into your Sick Leave if you believe it could be protracted.

Because LTD contributions are made entirely by the employee, no taxes are taken off your pay should you go on LTD. That means that there will be only a slight drop in the amount of money you take home if you go on LTD even though the number that appears is dramatically less than your gross (untaxed) salary amount.

Normal benefits and Pension Plan contributions continue with the normal cost sharing between employee and employer if you are on Sick Leave. If you go on LTD, the University will pay your full premium for Life Insurance and full contributions to the Pension Plan: this includes both your contributions and the University's contributions. You may continue your medical and dental coverage while you are collecting LTD benefits at the

normal cost-sharing arrangement if you indicate in writing to HR that you wish to do so. Normally, HR will send you a form asking about this along with your LTD application, but it is always wise to check with HR if you are unsure whether you did indeed indicate continued coverage, as the default is that you will not be covered. If you go on an unpaid leave of absence, you can maintain your benefits and pension, but you will be required to pay the full premiums for any that you wish to continue: this means you must pay both your contributions and the University's contributions.

Academic Leave can be interrupted by Sick Leave. Academic Leaves are to serve the objectives and goals of the University by providing tenured faculty members with a regular opportunity to maintain and enhance the quality of their scholarship and teaching, and it is not possible to work diligently towards this goal if you are sick. You must make arrangements with your academic unit head (or dean) about resuming your Academic Leave at some later date, keeping in mind that timing will have to make sense for both you and the academic unit.

Before returning to work after being on LTD, and sometimes even when returning after a protracted Sick Leave, you will need to provide documents from your health professional confirming that you are able to return to work. If you are on LTD, then Great West Life will request medical documentation and coordinate with Shannon your return to work. Shannon works with you and the department or faculty. A graduated return to work is possible. Please know that the percentage of work you are able to do upon your return may have consequences for the amount of salary you receive for any time that you work less than 100%.

For a general review of leaves, please see KYCA 2, on Leaves, at http://qufa.ca/publications/know_your_ca_2008/KYCA-2-Leaves.pdf

Chronic Illness and Disability

Some illnesses are or can become chronic and debilitating enough to fit within the definition of disability. While the Ontario Human Rights Code provides the legal definition of disability in section 10, the Ontario Human Rights Commission (OHRC) provides a simpler working description on its Web site (see the URLs at end of this document):

"Disability" covers a broad range and degree of conditions, some visible and others not. A disability may have been present from birth, caused by an accident, or developed over time. It includes physical, mental, and learning disabilities, mental disorders, hearing or vision disabilities, epilepsy, drug and alcohol dependencies, environmental sensitivities, as well as other conditions.

"Under the Code, protection from discrimination because of disability includes past, present, and perceived conditions. For example, a person who experiences discrimination because she is a recovered alcoholic is protected by the Code, as is a person whose condition does not limit his workplace abilities but who is believed to be at greater risk of having limitations in the future."

If you have a disability that limits your workplace ability, then QUFA strongly urges you to consider requesting a workplace accommodation.

Non-Discrimination and Accommodation

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"Access" and "accommodation" are terms of art when speaking about disability. They

encompass legal obligations and

actions that can be taken to try to eliminate discriminatory practices or behaviours.

Access is about eliminating barriers and designing inclusively, both physical and attitudinal, to try to obviate accommodation as much as possible so that persons with disabilities can participate fully without having to ask for accommodation. Accommodation is about adapting the situation to allow the person to do her or his job properly. The OHRC describes the goal of accommodation as being “to allow equal benefit from and participation in services, housing, or the workplace.”

While non-discrimination and accommodation would apply whether they were mentioned in the CA or not, writing them into the CA alerts Members that these important human rights are indeed applicable at Queen’s, and that the employer knows this to be so. Mentioning them in the CA provides clarity with respect to the fact that the employer, Queen’s University, has a legal obligation to accommodate a disability to the point of “undue hardship.” So that means that Queen’s University and not the academic unit has the ultimate

obligation to ensure appropriate accommodation is provided.

Figuring out workplace accommodation for a disability is a shared responsibility. This means that the person requiring a workplace accommodation has responsibilities as well as rights, and one of these is to bring to the attention of the appropriate person(s) the need for workplace accommodation. This recognizes the fact that some people with some disabilities will not require any accommodation to do their job and others will, and the employer, colleagues, and union cannot presume. When an accommodation is required, the discussion will involve the employee (you), the employer (Health and Wellness Programmes and Services in HR, Shannon Jones), and your healthcare professional. Please remember that you should normally first contact Shannon Jones to discuss your situation rather than your academic unit head (or dean).

To put the accommodation in place, the head of your academic unit may be contacted if changes must be made that the head needs to know about. If you, the person requiring an accommodation, feel the need for support or explanation about

implications for your work, we urge to you contact QUFA. If changes are needed that involve rethinking a portion of the obligations of the Member under the CA to accomplish the accommodation (but retaining the core responsibilities of the job), then both QUFA and Faculty Relations will become involved.

We are all charged with figuring out the appropriate accommodation and making it work in a manner that preserves the dignity of the person with the disability. Confidentiality and preservation of privacy are important in the process.

Ramneek Pooni can be reached at poonir@queensu.ca.



QUFA encourages you to print out and post Know Your CA in a visible place in your department or unit.

Thank you! Know Your CA is archived on the

QUFA Web site, at <http://www.qufa.ca/ca/>.

Know Your CA is edited by Robert G. May. He can be reached at mayr@queensu.ca.

ON THE WEB

Illness and Disability Resources

What follows is a list of contacts at Queen’s University and Web sites you might find useful. If you are unsure what to do or are confused, please do not hesitate to contact QUFA.

1. Queen’s Human Resources

Provides advice, support and guidance on accommodation cases and return to work cases for faculty and staff. Develops and implements appropriate and safe accommodation plans and return to work plans for employees with disabilities, on sick leave, or on long-term disability. Also, designs and promotes university-wide health and wellness programs, focusing on issues, training, and services to meet the University’s and employee’s needs.

Shannon Jones, Health and Wellness Programmes and Services:

(The Human Resources Web site might still show her previous title of “Workplace Advisor (Accommodation and Wellness)”)

Tel: 613.533.6000 ext. 77818

E-mail: shannon.jones@queensu.ca

Returning to Work and Accommodation:

http://healthyu.hr.queensu.ca/atwork/returning_to_work.html

Human Resources Accommodation in the Workplace Policy:

<http://www.hr.queensu.ca/policies/personal-accom.php>

Employee Assistance Plan:

<http://www.hr.queensu.ca/personalfamily/sup-empass.php>

2. Queen's Equity Office

Provides general information about access and accommodation at Queen's University, as well as information related to the implementation of the Accessibility for Ontarians with Disabilities Act (2005) at Queen's University.

Queen's Equity Office:

<http://www.queensu.ca/equity/>

Accessibility:

<http://www.queensu.ca/equity/content.php?page=accessibility>

Jill Christie:

Tel: 613.533.6000 ext. 78984

Fax: 613.533.2031

E-mail: equity@queensu.ca

3. Queen's Human Rights Office

Administers the Queen's Harassment/Discrimination Policy and Procedure. Provides confidential Human Rights Advisory service to assist individuals or groups who wish to pursue informal or formal routes of complaint resolution following incidents of discrimination. Provides educational resources with regard to rights and responsibilities in the area of human rights.

Queen's Human Rights Office:

<http://www.queensu.ca/humanrights/>

Ruth Santamaria:

Tel: 613.533.6886

TTY/TDD: 613.533.2755

E-mail: hrights@queensu.ca

4. Queen's University

Queen's Harassment/Discrimination Complaint Policy and Procedure:

<http://www.queensu.ca/secretariat/senate/policies/harass/index.html>

Accessibility and Accommodation:

The Human Rights Legislation Group at Queen's held a meeting in November 2009 about Accessibility and Accommodation and has some useful links for both Queen's training as well as background information at the following Web site:

<http://www.queensu.ca/humanrights/legislationgroup/highlights.html>

Campus Accessibility Guide:

This guide is intended to help students, faculty, staff and visitors to the campus identify accessible building entrances and other building accessible facilities, plan their route through the campus, and keep current with improvements to campus access.

<http://www.queensu.ca/pps/access/>

5. Elsewhere

Ontario Human Rights Code (the Code):

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90h19_e.htm

Ontario Human Rights Commission (OHRC):

<http://www.ohrc.on.ca/en/issues/disability>

Accessibility for Ontarians with Disabilities Act, 2005 (AODA):

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_05a11_e.htm

Ontario Ministry of Community and Social Services:

The Ontario Ministry of Community and Social Services has developed a Web site to explain the Act and it also incorporates links to useful information.

<http://www.mcscs.gov.on.ca/en/mcss/programs/accessibility/>