

Chapter 73: Leave Policies

3335-73-01 Unpaid leaves.

- (A) The university may grant unpaid leave to a classified civil service employee. Such leave may be for personal or medical reasons for up to a maximum duration of six months and may not be extended.
- (B) An unpaid medical leave must comply with the following provisions:
 - (1) Medical reasons may include, but not be limited to, the employee's own injury, illness, other medical condition, or when an employee becomes incapacitated to the extent that the employee is unable to perform the essential duties of the position.
 - (2) The employee must state a date by which the employee will return to work. If no date of return can be stated by the employee or if the need for leave continues beyond approved family and medical leave, the university may place the employee on disability separation pursuant to this chapter.
 - (3) Appropriate medical documentation must be submitted from a licensed practitioner when applying for unpaid leave.
- (C) Upon completion of such unpaid leave, the employee shall return to the same or similar position of employment. If the unpaid leave was for medical reasons, appropriate medical documentation from a licensed practitioner may be required to verify that the employee has been released to return to work. The employee may return to active pay status prior to the originally scheduled expiration of the unpaid leave, if the earlier return is agreed to by both employee and university.
- (D) Failure to return to service within three working days of the completion or valid cancellation of an unpaid leave without explanation to the appointing authority is cause for termination of employment. An employee who fails to return to service from an unpaid leave and is subsequently terminated or voluntarily resigns from the service is deemed to have a termination date corresponding to the starting date of the unpaid leave.
- (E) If it is determined that the unpaid leave is not being used for the purpose for which it was granted, the university may cancel the unpaid leave and direct the employee to return to work by giving written notice by regular mail to the employee. The employee shall be subject to disciplinary action up to and including termination for any misuse of the unpaid leave. (B/T 6/14/82, 6/22/97, 7/1/01, 9/17/2010, 4/8/2011)

3335-73-02 Military leave.

- (A) An employee who enlists or is commissioned in the United States armed forces or who is a member of the Ohio national guard, Ohio military reserve, the Ohio naval militia, or is in the reserves for any branch of the United States armed forces, may request military

- leave. Such military leave may be requested for the performance of duty on a voluntary or involuntary basis and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty or an examination to determine the fitness to perform any such duty. An employee may be absent from university employment pursuant to this rule for a cumulative amount of time not to exceed five years unless special orders are issued by the president of the United States or the United States department of defense.
- (B) An employee who requests military leave must provide reasonable advance written notice of such active military service to the university. Such advance notice is not required when it is precluded by military necessity or the giving of such notice is otherwise impossible or unreasonable.
- (C) The university is not required to reemploy a person after military leave if:
- (1) The university's circumstances have so changed as to make such reemployment impossible or unreasonable;
 - (2) Such reemployment would impose an undue hardship upon the university; or
 - (3) The employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period.
- (D) Unless otherwise ineligible, upon completion of military service, the employee will apply for reemployment in a timely manner:
- (1) For service of less than thirty-one days, notice must be given no later than the beginning of the first full regularly scheduled work period that starts at least eight hours after return from military service.
 - (2) For service of more than thirty days, but less than one hundred eighty-one days, notice must be given no later than fourteen days after return from military service.
 - (3) For service of more than one hundred eighty days, notice must be given no later than ninety days after return from military service.
- (E) Following a military leave, an employee eligible for reemployment shall return, within thirty days of the request of reemployment, to the same or similar position regardless of the employee's civil service status.
- (F) An employee shall be reemployed with all rights and benefits generally available to employees in a comparable unpaid leave, including the following:
- (1) All sick and vacation leave that had been accumulated at the time of entering service;
 - (2) All seniority that would have accrued had the employee been on the job;

- (3) Automatic salary adjustments associated with the position and due the employee had the employee been on the job;
 - (4) Any change in classification or pay range that would be due the employee had the employee been on the job; and
 - (5) Reinstated health insurance and related insurance benefits with no waiting periods or pre-existing conditions exclusions.
- (G) This rule does not apply to any employee who, by re-enlisting or extending active duty beyond the commission, displays an intent to remain on extended active duty in the armed services of the United States.
- (H) A reemployed individual shall not be terminated, except for cause or other legitimate nondiscriminatory reasons:
- (1) Within twelve months after the date of reemployment, if the employee had been employed by the university for more than one hundred eighty days prior to the date of reemployment; or
 - (2) Within one hundred eighty days after the date of such reemployment, if the employee had been employed by the university for more than thirty days but less than one hundred eighty-one days prior to the date of reemployment.
- (I) Discrimination or retaliation with regard to any aspect of employment against an individual for voluntary or involuntary membership in uniformed service is prohibited.
- (J) Family and medical leave as it applies to members of the military and their family members is provided for in university human resources policy. (B/T 6/14/82, 6/22/97, 7/1/01, 4/8/2011)

3335-73-03 Court leave.

- (A) The university shall grant court leave without loss of pay to any employee who:
- (1) Is summoned for jury duty;
 - (2) Is subpoenaed to appear before any court, commission, board or other legally constituted body authorized by law to compel the attendance of witnesses, when the employee is not a party to the action; or
 - (3) Is the appellant in any action before the state personnel board of review and is in active pay status at the time of a scheduled hearing.
- (B) Any employee who is appearing before a court or other legally constituted body in a matter in which the employee is a party may be granted vacation or unpaid leave. Such instances would include, but not be limited to: criminal or civil cases, traffic court, divorce

proceedings, custody, or appearing as directed as parent or guardian of juveniles. (B/T 6/22/97, 4/8/2011)

3335-73-05 Involuntary disability separation.

- (A) If the university believes that an employee can no longer perform the essential job duties of the position, then the university may require that the employee submit to a medical psychological, and/or functional capacity examination performed by a licensed practitioner designated by the university, and paid for by the university, prior to an involuntary disability separation unless the employee is hospitalized at the time such action is to be taken.

In lieu of requiring an examination, the university may use medical documentation submitted by the employee's licensed practitioner.

- (B) When the university determines that the employee is unable to perform the essential job duties of the position and after receiving the information as noted in paragraph (A) of this rule, the university shall hold a pre-separation hearing. The university shall provide notice of the pre-separation hearing at least seventy-two hours prior to the scheduled hearing.
- (C) At the pre-separation hearing, the university shall consider the information as noted in paragraph (A) of this rule, the essential job duties of the employee's position, and any additional evidence relating to the employee's ability to perform the essential job duties. After considering the evidence, the university shall either issue an involuntary disability separation order or cease the separation proceedings. The appointing authority shall notify the employee in writing of the university's decision.
- (D) An employee separated pursuant to this rule may appeal in writing to the state personnel board of review within ten days after receiving the determination of involuntary disability separation.
- (E) An employee on disability separation shall be reinstated to the same or similar position within a reasonable period of time after a written application for reinstatement. Such application for reinstatement shall be filed within two years from the date of separation and shall not be filed after the date the employee is eligible to retire based up on service. A complete reinstatement application must include a certificate from a licensed practitioner designated by the university who has examined and verified that the employee is able to perform the essential functions of the job. The university shall pay for the examination. If the employee was granted disability retirement, a licensed practitioner designated by the public employee retirement board shall conduct the examination. (B/T 6/14/82, 6/22/97, 7/1/01, 9/17/2010, 4/8/2011)

3335-73-06 Voluntary disability separation.

An employee who is unable to perform the essential job duties of the position due to a disabling illness, injury, or condition may request a voluntary disability separation. A voluntary disability

separation occurs when an employee does not dispute the inability to perform the essential job duties of the position.

- (A) The university may grant an employee's request for voluntary disability separation based upon previously submitted medical documentation or may require the employee to submit to an additional medical, psychological, and/or functional capacity examination. If the documentation supports the employee's request, the university shall grant the employee's request for voluntary disability separation. If the medical examination does not support the employee's request, the university shall not approve the employee's request for voluntary disability separation.
- (B) An employee who is granted a voluntary disability separation waives the ability to have a pre-separation hearing.
- (C) An employee separated pursuant to this rule may appeal in writing to the state personnel board of review within ten days after receiving the determination of disability separation.
- (D) An employee on disability separation shall be reinstated to the same or similar position within a reasonable period of time after a written application for reinstatement. Such application for reinstatement shall be filed within two years from the date of separation. A complete reinstatement application must include a certificate from a licensed practitioner designated by the university who has examined and verified that the employee is able to perform the essential functions of the job. The university shall pay for the examination. If the employee was granted disability retirement, a licensed practitioner designated by the public employee retirement board shall conduct the examination. (B/T 6/14/82, 6/22/97, 7/1/01, 9/17/2010, 4/8/2011)

3335-73-07 Administrative leave.

The university may place an employee on administrative leave with pay at its discretion. Such leave is to be used in circumstances when the health or safety of any employee or of any person or property entrusted to the employee's care could be adversely affected or during an administrative investigation as determined by the office of human resources. Compensation for administrative leave shall be equal to the employee's base rate of pay. The length of such leave is solely at the discretion of the university. (B/T 7/1/01, 9/17/2010, 4/8/2011)