

Rules for the Classified Civil Service

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 of six months, however, the six months may be extended at the discretion of the university.
- (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 service 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 will constitute job abandonment and 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



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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, 11/19/2020)

3335-73-02 Military leave.

- (A) The university provides military leave and benefits in accordance with federal and state laws, including but not limited to, the Uniformed Services Employment and Reemployment Rights Act (USERRA). (B/T 6/14/82, 6/22/97, 7/1/01, 4/8/2011, 11/19/2020)

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 currently in a paid status (by working or receiving any paid time pursuant to the university policy) 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, 11/19/2020)

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) Individuals reinstated after disability separation or disability retirement shall be reinstated to the same or similar position within a reasonable period of time after a written application for reinstatement. Reinstatement shall be in the jurisdiction in which they were employed when separated, except when implementing reasonable accommodations under the Americans with Disabilities Act requires reinstatement in another jurisdiction. Such application for reinstatement shall be filed within two years from the date of separation in cases of disability separation or within five years in cases of OPERS disability retirement. A complete reinstatement application must include a written request for reinstatement by the employee shall be accompanied by a return to work release by their treating physician. If the employee was granted disability retirement, a licensed practitioner designated by the public employee retirement board shall conduct the examination. Following reinstatement, the university may require the employee to submit to an examination by a licensed practitioner designated by the university to ensure that the employee can perform the essential functions of the job. The university shall pay for the examination. Following reinstatement, successful completion of reemployment screening is required. If an employee does not pass any

screening, a hearing will be held to determine the employment action to be taken. (B/T 6/14/82, 6/22/97, 7/1/01, 9/17/2010, 4/8/2011, 6/7/2013)

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) Individuals reinstated after disability separation or disability retirement shall be reinstated to the same or similar position within a reasonable period of time after a written application for reinstatement. Reinstatement shall be in the jurisdiction in which they were employed when separated, except when implementing reasonable accommodations under the Americans with Disabilities Act requires reinstatement in another jurisdiction. Such application for reinstatement shall be filed within two years from the date of separation in cases of disability separation or within five years in cases of OPERS disability retirement. A complete reinstatement application must include a written request for reinstatement by the employee shall be accompanied by a return to work release by their treating physician. If the employee was granted disability retirement, a licensed practitioner designated by the public employee retirement board shall conduct the examination. Following reinstatement, the university may require the employee to submit to an examination by a licensed practitioner designated by the university to ensure that the employee can perform the essential functions of the job. The university shall pay for the examination. Following reinstatement, successful completion of reemployment screening is required. If an employee does not pass any

screening, a hearing will be held to determine the employment action to be taken. (B/T 6/14/82, 6/22/97, 7/1/01, 9/17/2010, 4/8/2011, 6/7/2013)

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)