

123:1-34-01                    **Leave of absence without pay.**

Nothing in this rule shall be construed as limiting, superseding, or requiring any leave granted under The Family and Medical Leave Act of 1993 (FMLA). Given proper notice and under appropriate circumstances, a leave of absence for a FMLA qualifying purpose may be credited against an employee's FMLA leave entitlement.

(A) Classified service. An appointing authority may, with the approval of the director grant a leave of absence without pay to an employee in the classified service. An employee must request, in writing, all leaves of absence without pay. The request shall state reasons for taking leave of absence without pay and the dates for which such leave is being requested.

(1) Length of leave. Upon written request, a leave of absence without pay may be granted for any personal reason. Renewal or extension beyond the maximum allowed shall not be granted except as provided in this rule.

(a) Leaves of absence without pay for personal reasons may be granted for a maximum duration of six months.

(b) Employees of any agency which has a work year equivalent to an academic year may be granted leaves of absence without pay for personal reasons of six months, and such leave may be extended for instructional and instructional support staff with the approval of the director through the beginning of the next academic year.

(c) Leave of absence without pay may be granted for a maximum period of two years for purposes of education or training which would be of benefit to the service; or for voluntary service in any governmentally sponsored program of public betterment. Renewal or extension beyond the two-year period shall not be allowed.

(2) Abuse of leave. If it is found that a leave is not actually being used for the purpose for which it was granted, the appointing authority may cancel the leave and direct the employee to report for work by giving written notice to the employee and the director of administrative services.

(3) Failure to return. An employee who fails to return to duty within three working days of the completion or a valid cancellation of a leave of absence without pay without explanation to the appointing authority or his representative, may be removed from the service in accordance with section 124.34 of the Revised Code. An employee who fails to return to service from a leave of absence without pay and is subsequently removed or voluntarily resigns from the service is deemed to have a termination date corresponding to the starting

date of the leave of absence without pay.

- (4) Return to service. Upon completion of a leave of absence without pay, the employee shall be returned to the same or similar position within the employee's former classification. If the employee's former classification no longer exists the employee shall, with approval of the director, be assigned to a position in a classification similar to that formerly occupied. The employee may be returned to active pay status prior to the originally scheduled expiration of the leave if such earlier return is agreed to by both the employee and the appointing authority.
- ~~(5) Civil service examinations. A provisional employee who is on leave of absence without pay is responsible for obtaining information about and participation in any tests given for the employee's classification during such leave and may be replaced from an eligible list.~~
- ~~(6)~~(5) Service credit. Authorized leaves of absence without pay will count as service credit for annual step increases, layoff purposes, and for computing the amount of vacation leave, provided the employee is properly returned to service and is not serving a probationary period. Employees that do not return to service from a leave of absence without pay shall not receive service credit for the time spent on such leave.
- ~~(7)~~(6) Reporting leaves. The appointing authority shall report to the director any leave of absence without pay which extends for one pay period or longer, and the subsequent return from such a leave. Any leave of absence without pay shall be reported for an employee serving a probationary period.
- ~~(8)~~(7) Probationary period of an employee on a leave of absence without pay. The period during which an employee is on a leave of absence without pay shall not be counted towards an employee's original or promotional probationary period.
- (B) Unclassified service. Leave of absence without pay may be granted to an employee in the unclassified service in the same manner as it is granted to a classified employee. Such leave shall be reported to the director but is not subject to the director's approval. Return of an employee in the unclassified service to active pay status shall be at the discretion of the appointing authority.
- (C) Disabling illness, injury or condition. Subject to the provisions contained in Chapter 123:1-33 of the Administrative Code, upon written request to the appropriate appointing authority, employees with a disabling illness, injury or condition who are not eligible to receive disability benefits may be granted a leave of absence

without pay, subject to the provisions of this rule. The employee must demonstrate that the probable length of disability will not exceed six months.

- (1) Length of leave. Leaves of absence without pay shall be limited to the period of time that the employee is unable to perform the essential job duties of the employee's position. This period may include reasonable rehabilitation and recovery time, as certified by a licensed practitioner, not to exceed six months. If the employee is unable to return to active work status within six months, the employee may be given a disability separation in accordance with Chapter 123:1-33 of the Administrative Code.
- (2) Licensed practitioner's certificate. An employee requesting a leave of absence without pay due to a disabling illness, injury or condition must present, at the time the request is made, a licensed practitioner's certificate stating the probable period for which the employee will be unable to perform the essential job duties of the employee's position.
- (3) Sick leave usage. Upon request, and in accordance with the rules of the director on sick leave and disability leave benefits, an employee not eligible to receive disability leave benefits under a program offered by an appointing authority shall be permitted to use any or all of the employee's accumulated sick leave credit only for the period of time, as certified by the licensed practitioner's certificate, that the employee is unable to work as a result of a disabling illness, injury or condition. An employee using sick leave credit shall not be prevented from receiving a leave of absence without pay for the remainder of the period as defined in paragraph (C)(1) of this rule.
- (4) Vacation leave usage. Subject to the provisions contained in Chapter 123:1-33 of the Administrative Code, an employee not eligible to receive disability leave benefits under a program offered by an appointing authority shall, upon request, be permitted to use any or all of the employee's accumulated vacation leave at any reasonable time prior to, during, or following the period as defined in paragraph (C)(1) of this rule.
- (5) Request for leave. Requests for leave of absence without pay, sick leave, personal leave or vacation leave made pursuant to this rule are subject to the internal management procedures of the employee's appointing authority.
- (6) Return to work. The appointing authority of an employee on a leave of absence without pay for a disabling illness, injury or condition may require the employee, prior to the employee's return to work, to provide a physician's certificate that confirms the employee is able to perform the essential job duties of the employee's position.

- (D) Child care. Any employee may, at the discretion of the appointing authority, be granted a leave of absence without pay for purposes of child care. All requests for leave of absence without pay for purposes of child care shall be considered on a nondiscriminatory basis without regard to the sex of the employee.

An adoptive or foster parent's request for leave of absence for purposes of child care shall be considered on the same basis as that of a biological parent under similar circumstances.

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Certification

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Date

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