

123:1-34-01

Leave of absence without pay.

Nothing in this rule ~~shall~~will 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 without pay 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~~employee's request for a leave of absence without pay will be in writing and will state the reasons for taking the leave of absence without pay and the ~~dates~~ date(s) for which such leave is being requested.

(1) Classified service. An appointing authority may grant a leave of absence without pay to an employee in the classified service with the approval of the director.

(2) Unclassified service. An appointing authority may grant a leave of absence without pay to an employee in the unclassified service and will report such leave to the director.

(B) Conditions of leave of absence without pay.

(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~~will 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~~that 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 that would be of benefit to the service;~~ the employee's agency or for voluntary service in any governmentally sponsored program of public betterment. Renewal or extension beyond the two-year period ~~shall is~~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 A classified~~ employee who fails to return to ~~duty~~ service 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 Any~~ 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.~~
 - (a) Classified employees. Upon completion of a leave of absence without pay, the employee will 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 will, 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.
 - (b) Unclassified employees. The employee's return to service is within the discretion of the appointing authority, subject to all relevant state and federal law including but not limited to the FMLA.
- (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~~ who do not return to service from a leave of absence without pay ~~shall~~ will not receive service credit for the time spent on such leave.
- (6) Reporting leaves. The appointing authority ~~shall~~ will report to the director any leave of absence without pay ~~which~~ that extends for one pay period or longer,

and the subsequent return from such a leave. Any leave of absence without pay ~~shall~~will be reported for an employee serving a probationary period.

- (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~~will not be counted towards an employee's original or promotional probationary period.
- (8) Benefits. While on a leave of ~~absence~~absence without pay ~~lasting that lasts~~ longer than one pay period, the employee is responsible for both the employer's and employee's share of health care benefit premiums, ~~except as required unless prohibited~~ by law.
- ~~(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~~if the employee ~~must demonstrate demonstrates~~ that the probable length of disability will not exceed six months.
- (1) Length of leave. Leaves of absence without pay ~~shall be~~are 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~~will 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. The specialty of the licensed practitioner providing the certificate will be based upon the employee's diagnosed condition. If a request for leave is based upon a diagnosis of a mental disorder, including but not limited to, psychosis, mood disorders, and anxiety, then such request must be confirmed by a licensed mental health practitioner.

- (3) Sick and vacation 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 an employee shall~~ will be permitted to use any or all of the employee's accumulated vacation and sick leave credit only for the period of time, as certified by ~~the a credible~~ licensed practitioner's certificate, that the employee is unable to work as a result of a disabling illness, injury, or condition. An employee ~~using who used sick or vacation leave credit for the disabling illness, injury, or condition shall not be prevented from receiving~~ may receive 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)~~(4) 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)~~(5) 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~~ will 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~~ will be considered on the same basis as that of a biological parent under similar circumstances.

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Certification

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