



## Ohio Administrative Code

### Rule 3335-73-05 Involuntary disability separation.

Effective: July 3, 2013

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(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.