



## Ohio Administrative Code Rule 3352-5-03 Leaves of Absence.

Effective: June 21, 2019

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### (A) Family and medical leave.

(1) In accordance with the federal Family and Medical Leave Act (FMLA), it is the rule of the university to grant up to twelve weeks of unpaid, job-protected leave to eligible employees per rolling twelve month period. Military family leave entitles employees to a combined total of up to twenty-six week of all types of FMLA leave per rolling twelve month period.

### (2) Leave under the FMLA may be used for:

- (a) To care of the employee's child in the year after birth, adoption, or placement for foster care.
- (b) For an employee's own serious health condition that renders the employee unable to perform his/her usual duties.
- (c) To care for a parent, spouse, or child of the employee who has a serious health condition;
- (d) For "qualifying exigency leave," to handle active-duty deployment-related activities of a family member; or
- (e) To care for a family member who was injured or became ill as a result of active duty military service.

### (3) Definitions

(a) FMLA: The Family and Medical Leave act provides up to twelve weeks of job protected leave to eligible employees under certain circumstances, and up to twenty-six weeks for military caregiver leave.



- (b) Family member: For the purposes of this rule, a family member is defined as a parent, son, daughter, or spouse of the employee; "child includes biological, adopted, step-child, foster or legal ward son or daughter (up to age eighteen, except in the cases where the child is incapable of self-care because of a mental or physical disability), or the person who stands in for the parent ("in loco parentis," meaning the employee provides daily care and financial support to the child).
- (c) Paid leave: The use of all accrued leave is required prior to going on unpaid status. Once sick leave is exhausted, vacation and or compensatory time must be used.
- (d) Serious health condition: An injury, impairment or physical or mental condition that involves either;
- (i) Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential mental care facility, and any period of incapacity or treatment connected with the inpatient care; or
- (ii) A period of incapacity requiring absence of more than three consecutive calendar days that also involves continuing treatment by (or under the supervision of) a health care provider;
- (iii) Any period of incapacity due to pregnancy or prenatal care; or
- (iv) Any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g. asthma, diabetes, epilepsy, etc.); or
- (v) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g. alzheimer's, stroke, terminal diseases. etc.); or
- (vi) Any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for non-chronic conditions that likely would result in incapacity for more than three consecutive days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).

Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, etc, are



examples of conditions that do not generally meet the definition of a serious health conditions.

(e) Unpaid disability leave: A leave of absence where the employee has exhausted all sick time (and vacation and or comp time if applicable) and there is still a need for additional leave. Collective bargaining members should refer to their respective contracts in regards to disability leave.

(f) Intermittent FMLA leave: An absence taken in nonconsecutive blocks of time rather than one continuous period.

(g) Reduced work schedule under FMLA: A reduction in the usual number of working hours per day or week for a period of time for reasons related to the approved FMLA.

(4) Military family leave.

(a) Eligible employees are entitled to up to twelve weeks of leave because of "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. Note that the employee's child need not be under the age of eighteen or disabled for purposes of this type of leave.

An eligible employee who is the spouse, son daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to twenty-six weeks of caregiver leave in a twelve month period to care for the service member. Again note that the employee's child need not be under the age of eighteen or disabled for purposes of this type of leave. Note also that the combined total of all types of FMLA leave may not exceed twenty-six weeks in a rolling twelve month period.

(b) The employee is required to provide appropriate documentation that supports the need for FMLA qualifying exigency or military caregiver leave.

(5) Provisions of FMLA.

(a) Any university employee (excluding student employees) who (i) has been employed by the



university for at least twelve months total and (ii) has worked for at least twelve hundred and fifty hours during the twelve-month period immediately preceding the requested leave date is eligible for FMLA-qualifying circumstances. When the employee and the employee's spouse are both employed by the university, each employee is eligible for a twelve-week leave period.

(b) The amount of FMLA leave for which the employee may be approved cannot exceed that for which the employee would normally be scheduled to work in a twelve-week period, e.g., the employee who is scheduled to work thirty-two hours per week is eligible for leave up to three hundred eighty-four hours (twelve weeks x thirty-two hours) of leave.

(c) The rolling twelve-month period during which the employee may use up to twelve weeks of FMLA leave begins on the first day of the leave and extends through twelve months. FMLA leave for the birth, adoption, or placement for foster care of a child must be completed within twelve months of the date of the birth, adoption, or placement.

(d) FMLA leave will run concurrently with other types of leave such as, but not limited to, sick leave, disability leave, workers' compensation leave and parental leave.

(e) FMLA leave may be used on a continuous basis, an intermittent basis, or as a reduced work schedule. A request with appropriate medical documentation for an intermittent leave, i.e., in separate blocks of time, or a reduced work schedule, i.e., a reduction in the number of hours worked each week, when medically necessary for the serious health condition of the employee or the employee's family member, will be approved. A request for an intermittent leave or a reduced work schedule in the year following the birth, adoption, or foster care placement of a child must be mutually agreed upon by the university and the employee.

(f) Employees must follow established call-in procedures and inform the supervisor or his/her designee that they are using FMLA leave when calling in.

(g) FMLA runs concurrently with the use of other paid leaves. FMLA may be unpaid leave unless the employee has accrued sick leave and/or vacation hours and/or compensatory hours which he/she is eligible to use for the purpose of the leave. Employee are required to use all their accrued and available leave during an FMLA leave. Sick leave may not be used under the FMLA for bonding with



a newborn or for adoption or foster care placement, or for military exigency leave. Such FMLA leaves will be paid by vacation hours and/or compensatory hours or will remain unpaid.

Upon expiration of FMLA leave, an employee who is still unable to return to work due to his/her own serious health condition may be eligible for further leave as a reasonable accommodation. Employees may contact the office of equity and inclusion.

(6) Continuation of benefits.

(a) During any period of unpaid FMLA leave, an employee who has medical, dental, vision, supplemental life, and/or short term disability coverages, and/or a flexible spending account, is eligible to continue these coverages provided that the employee continues to pay the employee's share of such coverages. Failure to pay the employee contribution amounts may result in cancellation of such coverages or, should the university choose to make such payments on the employee's behalf during any unpaid leave in order to keep coverages in place, the employee's obligation is to repay such amounts upon return to work.

(b) During any period of unpaid FMLA leave, the university will not pay salary or wages, holiday pay, winter leave, or university closure pay, or contribute toward retirement benefits or health savings account, or provide for the accumulation of sick leave or vacation leave.

(7) Application for FMLA leave.

(a) Approval of a request for FMLA is made by the department of human resources following submission of a family and medical leave request form and relevant documentation. When a request for FMLA leave is for a serious health condition of the employee or another eligible family member of the employee, the family and medical leave request form must be accompanied by a completed certification of health care provider form. The employee is required to provide thirty days of advance notice when a leave is foreseeable, or as much notice as practicable when the need for leave is not foreseeable thirty days in advance. A minimum of sixty days advance notice is requested for the birth of a child. The employee has a thirty day window after the birth to add the child to their health coverage (if applicable).



(b) The employee may also be required to provide a second or third medical opinion (at the university's expense) to confirm the need for a leave due to a serious health condition. Copies of the family and medical leave release form, the certification of health care provider form, and a summary of rights and responsibilities under the FMLA are available on the department of human resources website.

(8) Return to work at the end of an FMLA leave.

(a) When an employee is ready to return to work from an approved FMLA leave taken due to the employee's own serious health condition, the employee must provide the department of human resources with a satisfactory fitness for duty medical certification completed by the employee's health care provider prior to returning.

(b) Upon returning from an FMLA-covered leave, the employee will be returned to his/her original position or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment (subject to certain exceptions permitted by law).

(c) When an employee who has elected to not continue one or more of his/her medical, dental, vision, supplemental life, or short term disability coverages and/or a flexible spending account during his/her FMLA leave returns to work after leave, those benefits will be restored to the level of coverage available at the time the leave began. Any outstanding premiums may be deducted from the employee's wages upon return to work.

(9) University resources.

(a) 8410 vacation <https://policy.wright.edu/policy/8410-vacation>

(b) 8420 sick leave <https://policy.wright.edu/policy/8420-sick-leave>

(c) 8430 leaves of absence (8430.2 Unpaid Disability Leave <https://policy.wright.edu/policy/8430-leaves-absence>)

(d) Faculty and staff assistance program: <http://wright.edu/human-resources/benefits/additional->



miscellaneous-benefits/faculty-and-staff-assistance-program

(e) Office of equity and inclusion: <http://www.wright.edu/administration/affirm/index.html>

(B) Unpaid disability leave.

(1) A disability leave is defined as an unpaid leave granted or required by the university for medical reasons after the employee has exhausted all accrued sick leave. The employee may also exhaust all vacation leave before going on unpaid disability leave, if the employee so desires.

(2) A maternity leave is a disability leave and is subject to the same rules that govern all other disability leaves.

(3) A disability leave may be granted for periods of up to six months and may be extended by increments of up to six months to a total of one year.

(4) During a period of disability leave, the university shall not pay salary or wages or contribute toward retirement benefits or provide for the accumulation of sick leave or vacation leave.

(5) An employee on unpaid disability leave may continue medical and dental coverages and/or health care flexible spending benefits by making employee premium contributions to the university. In addition, the employee may pay to the university the premium for term life insurance and long-term disability coverage.

(6) Disability leave is granted by the appointing authority contingent upon a written statement from the employee's attending physician or the university's physician who has determined that the employee is disabled and prevented from performing his/her usual duties. The employee's accumulated sick leave shall be exhausted before disability leave is approved. At the employee's discretion, vacation leave also may be exhausted before the beginning of an unpaid disability leave. The employee may not be paid for vacation hours during an unpaid disability leave. If the employee is hospitalized or institutionalized upon expiration of accumulated sick leave, the disability leave may be given without examination.



(7) When a supervisor has reason to believe that the employee is unable to fulfill his/her usual duties by reason of disability, the supervisor may make a request to the appointing authority that the employee undergo a physical examination at the expense of the university. If the physical examination verifies the inability of the employee to fulfill his/her usual and customary responsibilities, the university will place the employee on disability leave upon exhaustion of all accrued sick leave. The employee may also exhaust all vacation leave before going on unpaid disability leave, if the employee so desires.

(8) The university may require that the employee on an approved disability leave undergo periodic physical examinations at the expense of the university to determine the employee's fitness to return to his/her usual duties or to remain on disability leave.

(9) The employee may return to work only by submission of a certificate from the attending physician verifying that the employee is physically able to resume his/her usual duties.

(C) Personal and educational leaves.

(1) Leave without pay may be granted for personal or educational reasons to faculty, unclassified staff, or classified staff.

(a) Personal leave. Leave without pay may be granted for personal reasons for a maximum duration of six months and may not be renewed or extended.

(b) Educational leave. Leave without pay may be granted for purposes of education for a period of up to six months and may be extended by six-month increments up to a period of two years.

(2) During a personal or educational leave, the university shall not pay salary or wages or contribute to insurance or retirement benefits or provide for the accumulation of sick leave or vacation leave. However, an employee on a personal or educational leave may continue insurance benefits and flexible spending account coverages by paying to the university the premium for those coverages.

(3) Request for personal or educational leave, stating the reason and dates or which the leave is being requested, shall be in writing and shall be submitted to the employee's supervisor. The supervisor





will forward the request with his/her recommendation to the appropriate authority for approval.

(4) A personal or educational leave for faculty and unclassified staff must be approved by the president or his/her designated representative. The appointing authority may grant such a leave of absence to classified staff.

(D) Professional development leave. Professional development leaves with pay may be granted to faculty and salaried unclassified staff for planned programs of education, research, study, creative activity, or other undertakings of benefit to the individual and the university. A professional leave may not be used to work toward a degree.

(E) Court leave.

(1) Court leave with full pay shall be granted to any employee who:

(a) Is summoned for jury duty by any court of competent jurisdiction; or,

(b) Is subpoenaed to appear before any court, commission, board, or other legally constituted body authorized by law to compel the attendance of witnesses, where the employee is not a party to the action.

(2) Any compensation or reimbursement for jury duty or for court attendance compelled by subpoena, when such duty is performed during the employee's normal working hours, is permitted to be kept by the employee and is not to be remitted to Wright state university.

(3) Any employee who is appearing before a court or other legally constituted body in which he/she is a party may be granted vacation time or leave of absence without pay.

(4) The employee who 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 before the board shall be granted court leave with full pay for purposes of attending the hearing.

(F) Military leave.



(1) Military leave with pay.

(a) The employee who is a member of the Ohio national guard, the Ohio military reserve, or a reserve component of the United States armed forces is eligible for a leave of absence with pay or field training or active duty not to exceed thirty-one calendar days per calendar year. The employee shall submit to his/her director or department chair a copy of the orders or other written proof as evidence of the call to duty. The maximum number of hours for which payment may be made in any one calendar year is one hundred seventy-six hours.

(b) When the period of military service is less than thirty-one days, the employee must report to the university not later than the beginning of the first full regularly scheduled work period, after period allowing for safe transportation from place of service to residence.

(2) Military leave without pay.

(a) The employee who has held a position for at least ninety days shall be granted an unpaid leave of absence to be inducted into or to enter military service. The employee shall give advance written or verbal notice to his/her director or department chair of the absence for military service, unless giving of such notice is precluded by military necessity or is otherwise impossible or unreasonable.

(b) The employee who leaves a job for military service is entitled to return to a job of similar seniority, status, and pay, regardless of the timing, frequency, duration, or nature of services, provided the service limitations and notice requirements as described in paragraphs (F)(2)(d) to (F)(2)(g) of this rule are met.

(c) If the period of military service was more than thirty days but less than one hundred eighty-one days, the employee must apply for reemployment not later than fourteen days after military service is completed, or the next full calendar day when such application becomes possible.

(d) If the period of military service was greater than one hundred eighty days, the employee must apply for reemployment not later than ninety days after service is completed.



(e) If it is impossible or unreasonable for the employee to apply for reinstatement within the prescribed period through no fault of the employee, he/she is allowed to report as soon as possible following the period. This situation will not cause the employee to forfeit his/her reemployment rights, but does subject the employee to the rules of conduct, established policy, and general practices of the university pertaining to explanations and discipline with respect to absence from the scheduled work.

(f) Five years shall be the cumulative amount of military service allowed for military leave without pay. Basically, most types of service are counted toward this limit. Exceptions include active duty during a war or declared national emergency or active duty in support of a critical mission.

(g) During reemployment following a military leave without pay, protection against discharge without cause shall be one year of protection if the period of service was more than one hundred eighty days; six months of protection if the period of service was between thirty days and one hundred eighty-one days; and, not protected period if the period of service was less than thirty-one days.

(G) Return from leave of absence (other than family and medical leave).

(1) Upon completion of a leave of absence, the employee shall be returned to his/her position or a similar position. The employee may be returned to active pay status prior to the originally scheduled expiration of the leave at a date mutually acceptable to the employee and the university. Classified staff may return prior to the previously scheduled date by submitting a written notification to the department of human resources thirty days prior to the intended early return.

(2) The employee who fails to return to his/her usual duties following the expiration of an approved leave may be terminated from employment at the university.