



## Ohio Administrative Code Rule 3359-26-04 Absence from campus.

Effective: April 20, 2019

---

(A) All non-exempt staff employees are required to request and have approved by their supervisor all absences from campus for each instance involving vacation, sick leave, death of a member of the immediate family, leave without pay, military leave, and/or court leave.

Each department is responsible for using the university of Akron approval process for such requests and approvals consistently with all departmental exempt and non-exempt staff employees. Provisions in collective bargaining agreements that refer to the request, use and approval of specific types of leave must be followed for employees covered by such an agreement. All approved absences must be reported on the employee's official time record.

Documentation may be required for certain types of absences.

(B) Holiday schedule.

(1) The university of Akron observes ten holidays annually:

Christmas day	Memorial day
Columbus day	New Year's day
Independence day	Presidents' day
Labor day	Thanksgiving day
Martin Luther King day	Veteran's day

(2) The dates on which these holidays are to be observed will be announced annually.

(3) If a holiday falls on Sunday, it will be observed on the following Monday; if a holiday falls on Saturday, it will be observed on the preceding Friday.

(4) If a holiday occurs during a period of active pay status - which includes approved sick leave, leave with pay, or vacation - the employee will be paid for the holiday. In order to qualify for holiday



pay, an employee must be in an active pay status on regularly-scheduled work days both prior and subsequent to the holiday.

(5) If it is essential that university offices remain open on a day designated as a holiday (ex: Veterans day):

(a) Any full- or part-time classified or unclassified non-exempt employee required to work on a designated holiday will be entitled to one and one-half times the regular rate of pay - either in the form of actual pay or compensatory time for the hours actually worked; such overtime will be in addition to the employee's normal pay for the holiday.

(b) Any full- or part-time exempt staff employee required to work on a designated holiday will be entitled to time off equal to the number of hours actually worked; such time off will be in addition to the normal pay for the holiday and is to be taken at the approval of the supervisor.

(6) If the university is officially closed at five p.m. on the day prior to a board of trustees' approved holiday (ex: Wednesday prior to Thanksgiving):

(a) For employees whose normally scheduled work day falls all or in part after five p.m., an effort may be made by the supervisor and employee to reschedule those hours within the same work week. Otherwise, the employee will be expected to work the normal schedule. If the hours are not worked or rescheduled, the employee may utilize vacation leave in order to be paid.

(b) Part time employees are entitled to holiday pay for that portion of any holiday for which the employee would normally have been scheduled to work.

(C) Family and medical leave.

(1) Under the Family and Medical Leave Act of 1993 ("FMLA"), up to twelve weeks of leave without pay during any twelve-month period are provided to eligible employees for certain family and medical reasons. Employees are eligible if they have been employed by the university for at least twelve months, this twelve-month period need not be consecutive, and worked at least one thousand two hundred fifty hours (0.6 FTE) over the twelve-month period preceding the leave. FMLA leave



without pay will be granted for any of the following reasons:

- (a) The birth of a child, the care of a newborn child, or placement of a child with the employee for adoption or foster care;
  - (b) A serious health condition of the employee that renders him or her unable to perform his/her job functions; or
  - (c) In order to care for an employee's child, spouse, or parent who has a serious health condition.
  - (d) A "qualifying exigency" arising out of the fact that the employee's spouse, child or parent is called to covered active duty (or notified of an impending call or order to active duty) with the armed forces, including the national guard and reserves. Covered active duty means duty during deployment of the armed forces member to a foreign country. A qualified exigency may include short-notice deployment, attending military events, arranging for alternative childcare, addressing financial and legal arrangements, seeking counseling, attending post-deployment activities, and other similar circumstances.
  - (e) Leave related to a child's birth or placement for adoption or foster care must be completed within the twelve-month period beginning on the date of the birth or placement.
- (2) A leave of absence of up to twenty-six weeks in any single twelve-month period (rolling forward) will be granted to eligible employees for the following purposes:
- (a) To care for a covered family member or next-of-kin (nearest blood relative) who has a serious injury or illness incurred by the service member in the line of duty on active duty in the armed forces (or existed before the active duty began and was aggravated in the line of active duty in the armed forces) and that may render the service member medically unfit to perform his/her duties. The service member must be: (i) undergoing medical treatment, recuperation or therapy; (ii) in outpatient status; or (iii) on the temporary disability retired list for the serious illness, or injury.
  - (b) To care for a veteran who is a covered family member or next-of-kin (nearest blood relative) who has a qualifying serious injury or illness incurred by the member in the line of duty on active duty in



the armed forces (or existed before the member's active duty began and was aggravated by service in the line of active duty in the armed forces) and that manifested itself before or after the member became a veteran. The veteran must be undergoing medical treatment, recuperation, or therapy for the serious injury or illness and have been a member of the armed forces during the five years preceding the date on which the veteran underwent the medical treatment, recuperation, or therapy.

(c) Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed twenty-six weeks in any single twelve-month period.

(3) Subject to the provisions of the applicable policies, paid vacation leave or paid sick leave may, at the employee's option, be substituted for leave without pay while on FMLA leave.

(4) If the employee fails to provide at least thirty days' advance notice when the leave is clearly foreseeable leave may be delayed until at least thirty days after the date the employee provides notice to the employer. If the employee fails to provide a medical or other certification to support a request for leave, leave may be delayed until certification is provided. If the employee never produces certification then the leave is not FMLA leave. The university may, at its own expense, request a second and/or third opinion. If the employee or employee's family member fails to authorize his/her health care provider to release all relevant medical information pertaining to the health condition at issue, as requested by the health care provider for the second/third opinion, the university may deny the taking of FMLA leave. However, if the university requests a second and/or third opinion, and the employee authorizes his/her health care provider to release the relevant medical information, the employee is provisionally entitled to the FMLA leave pending the employer's receipt of the relevant medical information.

(5) Group health benefits will be continued for the duration of an FMLA leave. Upon return, an employee will be restored to his or her original or an equivalent position with equivalent pay, benefits and other employment terms.

(6) A "rolling" twelve-month period measured retrospectively from the date an employee uses any FMLA leave shall be used to determine the "twelve-month period" in which the twelve weeks of FMLA leave entitlement occurs.



(7) Family and medical leave may be used on a continuous basis. It may also be used on an intermittent basis, or as a reduced work schedule as provided by law. Application for FMLA is made to human resources, and approval of the request made by human resources.

(8) When intermittent or reduced work schedule leave is foreseeable due to planned medical treatment, the employee must make reasonable efforts to schedule the treatment so as not to unduly disrupt the university's operation, and the university may temporarily transfer the employee to an alternative position for which the employee is qualified, if it better accommodates these recurring periods of leave.

(9) Nothing in this section shall be deemed to create any additional benefits, rights, or entitlements to employees beyond those provided by the provisions of the FMLA or applicable law of the state of Ohio. For the purpose of implementing this FMLA policy, the definitions and provisions of the FMLA in effect at that time shall be followed when necessary to ensure compliance with the law.

(D) An employee may be granted approved leave of absence without pay for military service, parental leave, convalescence (if sick leave is not applicable or exhausted), certain personal reasons, and/or training. The leave of absence must be approved in advance by the supervisor and must be accompanied by acceptable written justification. Such request shall state the reason for and the dates of the leave. Length of leave of absence can vary for different reasons, but normally extends to no more than six months.

(E) If it is determined that an approved leave of absence is not being used for the purpose for which it was granted, the university may require the employee to return to work or be subject to appropriate discipline as specified in Ohio Revised Code.

(F) Reduced workweek policy.

Staff employees who wish to work a reduced work week during the summer sessions or at other times of the year may request leave without pay. Reduction in working hours will require the permission of the employee's supervisor. Staff privileges and benefits will remain in effect for eligible full-time employees.



(G) Sick leave for non-exempt employees.

(1) Sick leave is defined as the authorized absence from duties for the following reasons:

(a) Personal illness, pregnancy, or injury,

(b) Exposure to contagious disease which could be communicated to other members of the university family,

(c) Illness, injury or death (to a maximum of five days) in the employee's immediate family, or

(d) Medical, psychological, dental, or optical examination or treatment of the employee or a member of the immediate family.

Definition of immediate family: the employee's immediate family is limited to the employee's spouse, parents, children, grandparents, siblings, grandchildren, brother-in-law, sister-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, or a legal guardian or other person who under Ohio law is legally recognized to stand in the place of a parent.

Where sick leave is required to care for a member of the immediate family, the department of benefits administration will require a physician's certificate to the effect that the presence of the employee is necessary to care for the ill person.

(2) The university reserves the right to require a physician's certification or other verification in all instances of paid leave. When such certification or verification is required, it shall be collected by the department of benefits administration for audit and retention.

The absence from duties must be approved by the administrator to whom the individual on sick leave is responsible.

(3) Unexcused absence or failure to give proper notification may result in the absence being charged to leave without pay and may also be cause for disciplinary action. Falsification of either a written, signed statement or a physician's certificate shall be grounds for disciplinary action including



dismissal. Except in instances due to extended illness or injury, monthly or annual absences greater than the number of hours or days accrued may be considered excessive.

(4) Sick leave is accrued at the rate of 4.6 hours per eighty hours of active pay status. Only accrued sick leave hours can be requested for authorized paid absences. Sick leave will be charged only for the non-overtime hours an employee is regularly scheduled to work but absent. Employees are not permitted to change a sick leave request once a work day has started (i.e. sick leave to vacation).

(5) A non-exempt employee who is unable to report for work, and who is not on previously approved vacation, sick leave, or leave of absence, shall be responsible for notifying the immediate supervisor, or other individual designated by the supervisor, that the employee will be unable to report to work on that day and each appropriate day thereafter. This notification must be made within one-half hour after the time the employee is scheduled to report for work, unless emergency conditions prevent such notification.

(6) When an employee's duties are part of a function which operates twenty-four hours a day, seven days per week - i.e., police, etc. - and such employee is unable to report for work, the employee shall notify the immediate supervisor at least two hours prior to the scheduled work time.

(7) In the case of any absence for illness or injury, the university may require a physician's statement specifying the employee's inability to report to work and the anticipated date of recovery. The employee shall be responsible for notifying the immediate supervisor, or other designated individual, whenever the employee is placed under a physician's care and not released to work or hospitalized, unless such condition precludes notification. The employee shall be responsible for notifying the immediate supervisor, or other designated individual, regarding the anticipated date of recovery and return to work.

(8) In all cases of leave for illness or injury, the university may require written certification by a physician attesting to an employee's fitness to return to work.

(H) The university shall provide a voluntary leave bank program for full-time, non-bargaining unit employees who wish to participate in the program. The program shall be administered by the office of human resources, pursuant to policy terms and conditions developed by that office, as may be



amended.

(I) Maternity leave. Upon delivery, an employee who is on active pay status shall, in the ordinary course of recovering from either a vaginal birth without complication, be entitled to use up to six weeks of accrued sick leave, or if a vaginal birth with complication as verified by a physician or cesarean birth, be entitled to use up to eight weeks of accrued sick leave, as long as the employee has accrued the requisite amount of leave, and if less, then shall be entitled, to use such lesser amount. In any event, the use of such accrued sick leave shall be at the employee's option to use however much time as the employee deems appropriate. If, upon delivery of the child, the employee is not in active pay status, but becomes in active pay status within six weeks, in the case of a vaginal birth without complication, or eight weeks, in the case of a vaginal birth with complication as verified by a physician or cesarean birth, the employee shall be entitled to use accrued sick leave upon being in active pay status for the remainder of the six- or eight-week period, as applicable. In any event, after using (or not using) such accrued sick leave, a full-time employee is granted twenty working days of paid maternity leave not taken from accrued sick leave. In addition to the paid maternity leave for full-time employees, an eligible employee who thereafter is physically unable to perform her duties may elect paid sick leave on the same terms that sick leave is available for any other illness, injury, or disability. In addition, the employee is entitled to FMLA leave if a pre- or post-delivery employee wishes to be absent from work for a period of time longer than the period of actual physical disability (see family and medical leave in paragraph (C) of this rule). Use of maternity leave shall count as part of the twelve-week FMLA leave.

(J) Paternity leave. A full-time employee who is on active pay status upon a pregnant spouse's delivery is granted, within one-hundred and eighty days of the delivery, twenty working days of paid paternity leave which will not be taken from accrued sick leave, but counted as part of FMLA leave.

(K) Adoptive and foster parent leave. Upon the adoption of a child or arrival of a foster child, a full-time employee who is on active pay status is entitled to twenty working days of paid leave which will not be taken from accrued sick leave, but counted as part of FMLA leave.

(L) Tardiness. An employee is expected to report for work at the scheduled starting time. Unreported, unexcused, and/or excessive tardiness may result in disciplinary action.





(M) Vacation.

(1) Non-exempt employees (full-time).

(a) A non-exempt, full-time university employee shall, after service of one year with the state, or any political subdivision of the state, have earned and will be due upon attainment of the first year of employment, and annually thereafter, eighty hours of vacation leave with full pay. One year of service shall be computed on the basis of twenty-six biweekly pay periods.

(b) The amount of annual vacation to which a full-time employee is entitled is determined by the number of accumulated years of service according to the following guidelines:

(i) Less than one year of service - no vacation,

(ii) One year, but less than eight years of service - eighty work hours,

(iii) Eight years, but less than fifteen years of service - one hundred twenty work hours,

(iv) Fifteen years, but less than twenty-five years of service - one hundred sixty work hours, and

(v) Twenty-five years of service - two hundred work hours.

(2) Non-exempt employees (part-time classified) - accrual commences effective January 1, 1999.

(a) A non-exempt, part-time classified university employee shall, after service of one year with the state, or any political subdivision of the state, have earned and will be due upon attainment of the first year of employment, and annually thereafter, pro-rated vacation leave with full pay. One year of service shall be computed on the basis of twenty-six biweekly pay periods.

(b) Formula for calculation (multiplying years of service times calculation factor):

Years of service	Calculation factor
0 - 7	.03875 x hours paid



8 -14	.05750 x hours paid
15 - 24	.07750 x hours paid
25 or more	.09625 x hours paid

(3) Vacation credit.

(a) An employee earns vacation credit as follows:

- (i) 3.1 hours per biweekly pay period for those entitled to eighty hours per year,
- (ii) 4.6 hours per biweekly pay period for those entitled to one hundred twenty hours per year,
- (iii) 6.2 hours per biweekly pay period for those entitled to one hundred sixty hours per year,
- (iv) 7.7 hours per biweekly pay period for those entitled to two hundred hours per year.

(b) Vacation credit can be accumulated to a maximum of that earned in three years of service. Any vacation accrued over the amount earned in a three-year period will be forfeited.

(c) Upon separation from employment payment for accrued and unused vacation leave shall be made upon separation of service from the university of Akron, upon death of the employee, or if the employee moves to part-time. Such payment will be made in a lump sum based on the rate of compensation at separation for any accrued but unused vacation leave, subject to a maximum of that earned in three years of service.

(4) The office of human resources shall establish a reporting system which shall provide for annual reporting by the dean or administrative director covering vacation accumulation and usage of each employee under the dean or director's supervision.

(5) Vacation leave may not be converted to sick leave unless the employee is admitted to or treated in a hospital or is under the treatment of a licensed physician and is not released to work. Written verification is required. Only those hours/days certified above may be converted to sick leave.