

# SECTION 11

## SEPARATION FROM EMPLOYMENT

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**A. RESIGNATION**

1. Resignation in good standing requires that an employee notify his/her immediate supervisor at least two (2) weeks in advance of the effective date of the resignation. Said effective date and/or the last physical date in his/her position may not be a County-observed holiday, according to the rules of this policy manual, Section 5.03.
2. Resignation is to be in writing and submitted to the Appointing Authority for acceptance. A formal letter of resignation should include a statement of intention to resign, the date the notice is given, the effective date of resignation, and the reason for resignation. The employee's signature and current address should also be included.
3. Except in rare and unique situations, employees should be present from the time they turn in their notice until their resignation date.
4. An employee who does not resign in good standing is ineligible for reinstatement.
5. An employee should remove all personal items from the work area by the end of the last day of employment.
6. An employee must return all Department equipment including keys, credit cards, notary seals, parking permit, uniforms, and I.D. cards, plus current passwords to all employment-related accounts, upon resignation or any other separation from employment.

**B. ABANDONMENT**

1. An employee who is absent from duty without leave for three (3) or more consecutive work days may be subject to removal for neglect of duty.
2. If at any time within thirty (30) days of termination for abandonment (neglect of duty) a classified employee makes to the Appointing Authority satisfactory explanation of the cause of his/her absence, he/she may be reinstated.
3. Except for #2 above, an employee who has abandoned his/her position and been terminated for neglect of duty is not eligible for future employment with the County.

**C. RETIREMENT**

1. Retirement will be in accordance with the rules and regulations of the Ohio Public Employees' Retirement System (OPERS). Information regarding OPERS can be obtained through OPERS. See Section 5.01(B) for contact information.

**D. VOLUNTARY DISABILITY SEPARATION**

1. An employee, who is unable to perform the essential job duties of his/her position due to a disabling illness, injury, or condition, may request a voluntary disability

separation. A voluntary disability separation occurs when the employee does not dispute his/her inability to perform the essential job duties of his/her position due to such disabling illness, injury, or condition.

2. The Appointing Authority may grant the employee's request for voluntary disability separation or may require the employee to submit to a medical or psychological examination conducted by one or more licensed practitioners selected by the Appointing Authority. If the examination supports the employee's request, the Appointing Authority will grant the employee's request for a voluntary disability separation. If the medical examination does not support the employee's request, the Appointing Authority will not approve the employee's request for voluntary disability separation.
3. An employee who is granted a voluntary disability separation will retain the right to be reinstated to his/her position for two (2) years from the date that the employee is no longer in active work status due to a disabling illness, injury, or condition. An employee may submit a written request for reinstatement from a voluntary disability separation (see Disability Separation Form (Voluntary) in Appendices).
4. The Appointing Authority may send a written reminder to the employee at least two (2) weeks prior to the expiration of his/her disability separation. An Appointing Authority's decision to not send a written reminder does not relieve the employee's responsibility to notify the Appointing Authority; the burden of responsibility solely rests on the employee. Any employee who fails to apply for reinstatement, formally resign, or take disability retirement, shall be separated from service at the end of the two (2) year period.

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**A. PROBATIONARY DISCHARGE**

1. A newly-appointed probationary employee may be probationally removed by the County at any time during the probationary period when, in the judgment of the Appointing Authority, the employee's fitness and/or quality of work do not merit continuation in the job. Probationary removals are not appealable and are not subject to the complaint or grievance procedure.

**B. DISCIPLINARY DISCHARGE**

1. Discharge is a serious disciplinary measure taken when less severe methods of discipline did not produce appropriate behavior, or when a serious infraction so warrants.
2. Discharges may be appealed by classified non-bargaining unit employees to the State Personnel Board of Review as outlined in the appeals procedure found in Section 9.02 – Complaint Procedure and 9.03 – Appeals – State Personnel Board of Review.

**C. LAYOFF**

1. A layoff of classified employees in an Appointing Authority's office may become necessary due to a lack of funds, lack of work, or the abolishment of position(s).
2. Employees will be notified at least two (2) weeks (fourteen [14] calendar days) before the effective date of a layoff. .
3. Whenever it becomes necessary to lay off employees in a classification, they will be laid off in accordance with the "order of layoff" previously established by the Ohio Department of Administrative Services (DAS is being used as a reference only, as they no longer control this process). Layoff procedures including, but not limited to, the use of retention points and the order of layoff and displacement (or "bumping") are in accordance with the Ohio Revised Code, the rules of the Administrative Code and as adopted by the Appointing Authority.
4. The order of layoff within each classification will be established on the basis of retention points, as follows:
  - a. Continuous service: Each full-time employee will be assigned a base of one hundred (100) retention points and will earn one (1) additional retention point for each completed, bi-weekly pay period of continuous full-time service.
5. An employee who has been laid off from his/her current classification may displace an employee with fewer retention points in a lower classification, in the same classification series or in the classification the employee held immediately prior to holding the classification from which he/she was laid off. However, an employee may not displace another employee in a classification if he/she does not meet the minimum qualifications of the classification, or if the employee last held the

classification more than three (3) years prior to the date on which he/she was laid off.

6. A recall list containing the names of all employees who have been laid off will be established and remain in effect for one (1) year.
7. An employee on the recall list will be recalled to a vacancy within his/her current classification or any lower classification within the same classification series in reverse order of lay off (that is, the employee most recently laid off will be recalled first).
8. Appeal of a layoff may be made to the State Personnel Board of Review within ten (10) days of an employee's receipt of notice.

**D. INVOLUNTARY DISABILITY SEPARATION**

1. When an Appointing Authority has reason to believe that an employee is incapable of performing the essential functions of the employee's position due to disabling illness, injury, or condition, the Appointing Authority may require the employee to submit to a medical or psychological examination conducted by one or more licensed practitioners selected by the Appointing Authority. It is not, however, necessary for the Appointing Authority to require the employee to submit to such examination prior to involuntary disability separation if: (1) the employee is hospitalized at the time such action is to be taken, and (2) the employee has exhausted any leave to which he/she is entitled under the FMLA.
2. When the Appointing Authority has received the results of a medical or psychological examination and initially determines that the employee is incapable of performing the essential functions of the employee's position due to a disabling illness, injury, or condition, the Appointing Authority will institute pre-separation proceedings. Under the proceedings, a hearing will be scheduled and advance written notice of at least seventy-two (72) hours will be provided to the employee. At the hearing, the employee will have a right to examine the Appointing Authority's evidence of disability, to rebut the evidence, and to present testimony and evidence on the employee's own behalf. The employee should also be permitted to waive his/her right to a hearing.
3. If the Appointing Authority determines, after weighing the testimony presented and the evidence admitted at the pre-separation hearing, that the employee is unable to perform the essential functions of his/her position, the Appointing Authority will issue an involuntary disability separation order.
4. The effective date of separation, for the purpose of reinstatement, will be based on the date the employee was no longer in active pay status due to the disabling illness, injury, or condition. The total continuous time of absence due to the disabling illness, injury, or condition will not exceed two (2) years for purposes of reinstatement rights.

5. An employee who is involuntarily disability separated will have the right to appeal in writing to the State Personnel Board of Review within ten (10) days following the date the order is served on the employee. Section 9.03
6. The Appointing Authority will also notify the employee, at the time the involuntary disability separation order is provided to the employee, of the required procedures to apply for reinstatement.

**E. MANDATORY FURLOUGH/COST SAVING DAYS (MULA).**

1. Pursuant to O.R.C. 124.393, County appointing authorities may establish mandatory Cost Savings Days (MULA – Mandatory Unpaid Leave of Absence) of up to the amount of hours allowed by law in a given year. The purpose of MULA is to assist the appointing authority to control costs. The statute requires the appointing authority must establish a rationale and a policy to guide the implementation of MULA.
2. Justification for MULA
  - a. The appointing authority may establish a need for MULA based on one of the following four (4) reasons.
    - i. A fiscal emergency declared by the governor under O.R.C. 126.05.
    - ii. A fiscal watch or fiscal emergency has been declared or determined under Section O.R.C. 118.023 or O.R.C. 118.04.
    - iii. A lack of funds as defined by O.R.C. 124.321.
    - iv. For reasons of economy as defined by O.R.C. 124.321.
3. Scope for MULA
  - a. MULA applies to all permanent full-time and permanent part-time employees, who are not subject to coverage under a collective bargaining agreement.
  - b. The appointing authority may order up to the amount of hours allowed by law of MULA or portion thereof.
  - c. MULA may be required of all employees, or may be applied to only employees in a certain funding stream, classification, appointment categories, department, unit, or other relevant distinctions.
4. Implementation
  - a. The goal of the policy is flexibility. MULA may be taken in increments of one-half (1/2) hour; however, no more than thirty-two (32) hours may be taken in any single pay period. If an employee has chosen the pro rata

method, that employee may take the full amount of hours in a block of time, as approved by the Appointing Authority or its designee.

- b. An employee may request the method he or she would like to use to meet the required cost savings/number of days. Some examples follow and any method chosen must be approved by the Appointing Authority or its designee.
  - i. The employee may ask that his/her pay be reduced on a pro rata basis reflecting the remaining pay periods in the SFY or period designated for savings, e.g., the cost savings period would be from the first pay in September to June 30. In a typical year, there would be twenty-two (22) pays remaining out of twenty-six (26).  $26 - 22 \times 80 = 1760 - 4.5\%$ . The employee's gross biweekly pay would be reduced by 4.5% for the twenty-two (22) remaining pay periods. The employee would then be required to select the days/hours he/she would like to take off. Any time not taken will not carry to the next year, and will not be paid. Failure to take the full-time off could result in disciplinary action. NOTE: Should an employee taking the pro rata approach be separated or retire from the agency, he/she will be paid out any unused vacation, and if eligible, sick leave at his/her current reduced rate.
  - ii. The appointing authority may designate certain days as MULA days. This could include a holiday, or other days such as the day before Christmas or New Years.
  - iii. The appointing authority may designate or assign to an individual the hours/days he or she must take.
  - iv. The appointing authority may require that a scheduled sick, personal day, or vacation be taken as MULA. In this situation, the employee will not lose his/her sick, vacation, or personal time.
  - v. The employee may schedule his or her unpaid time off as he or she would schedule a personal day or vacation. He must submit a request, and any time off must be approved by the Appointing Authority or its designee.
  - vi. NOTE: Different methods can apply for different employees. The employee may use one or a combination of the above methods. Other methods may be considered and utilized subject to the operational needs of the appointing authority. Each method is subject to the approval of the Appointing Authority or its designee.
  - vii. Voluntary Donation Program. In lieu of the mandatory cost savings program (or at any other time), employees may donate to the agency, dollar-for-dollar, the gross cost of such time (or if not in lieu of the mandatory cost savings program as the employee desires) via payroll deduction. Employees, who wish to choose this option, must

complete a payroll deduction authorization form and submit it to Human Resources. This program is completely voluntary and does not change or alter any terms or conditions of employment, nor has any employee received any preferential treatment, goods, or services as a result of their participation in this Program. Employees may at any time cancel the Payroll Deduction Authorization. Employees who wish to cancel their deduction should submit a letter in writing to Human Resources indicating their intent.

Annually, employees who donated to the Donation Program will receive a statement indicating the amount donated. Employees should consult with their personal tax advisor for specific advice relating to this donation.

5. Miscellaneous Items
  - a. Employees shall not accrue vacation leave and sick leave while on unpaid MULA days. Employees shall have their vacation leave and sick leave accrual pro-rated accordingly, such that they receive vacation and sick leave accrual for hours worked during a pay period where the employee serves unpaid MULA days.
  - b. MULA shall not be considered a break in service or affect retention points. As such, time spent on unpaid MULA days shall not affect the calculation of the employee's years of service for purposes of determining the proper service time for vacation accrual rates.
  - c. MULA shall not be considered as hours worked for the purposes of computing overtime pay.
  - d. Employees taking MULA will not lose their full-time or permanent part-time status, will not lose their health insurance, and will not be required to pay a portion of their health insurance for falling under thirty (30) hours in any week as a result of utilizing MULA.
  - e. An employee may take MULA prior to a holiday without losing holiday pay.
  - f. For qualifying conditions, MULA shall be taken concurrently with FMLA, and at the discretion of the appointing authority, may be required before taking paid leave.
  - g. MULA does not require the appointing authority to give prior notice to the employee.
  - h. MULA does not impact or affect any voluntary programs being administered by the agency, i.e., VULA.
  - i. MULA decisions are not appealable to SPBR.



- j. Employees exempt from overtime under FLSA, i.e., exempt salaried employees, may also be required to participate in MULA. In the case of the overtime exempt employee, they should opt for the pro rata method

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A. **AS USED IN THIS SECTION, "RETIREMENT" MEANS DISABILITY OR SERVICE RETIREMENT UNDER ANY STATE OR MUNICIPAL RETIREMENT SYSTEM IN THIS STATE, WHICH DOES NOT INCLUDE A CASH PAYOUT OR ROLLOVER WHERE EMPLOYEE IS CONSIDERED BY SUCH AGENCIES TO BE A REFUNDED MEMBER. FOR PURPOSES OF THIS SECTION, EMPLOYEES MUST BE CONSIDERED "RETIRED" BY SUCH AGENCIES, AND ARE ENCOURAGED TO DISCUSS THESE OPTIONS WITH THE APPROPRIATE AGENCY'S REPRESENTATIVE PRIOR TO SUBMITTING RETIREMENT PAPERWORK.**

B. **SICK LEAVE CONVERSION**

1. At the time of retirement from active service with the County, an employee with ten (10) or more years of service with the state or any political subdivision of the State of Ohio may choose to be paid in cash for one-fourth (1/4) the value of his/her earned but unused sick leave credit. The maximum payment may not exceed two hundred forty (240) hours, or thirty (30) days.
2. Payment is based upon the employee's base rate of pay at the time of retirement.
3. Payment may be made only once and will eliminate all sick leave credit accrued by the employee.
4. An eligible employee who dies is considered to have terminated his/her employment as of the date of death. Sick leave conversion will be paid according to RC 2113.04, or paid to the employee's estate.
5. Eligible employees, retiring from active service, shall complete a Leave Conversion Request Form (Retirement) (see Appendices) to initiate the payment process. This is the only time the employee will have the opportunity to exercise the retirement cash conversion option. If the employee fails to exercise the option at the time of his/her retirement, such opportunity shall be lost.

C. **HEALTH CARE BENEFITS CONTINUATION (COBRA)**

1. In certain instances, employees and their families have the right to temporarily extend their health care benefits at group rates. The Health Care Benefits Continuation Program will be administered in accordance with all applicable rules and regulations. Information regarding this program can be obtained through the Wayne County Commissioners Office.

D. **OHIO PUBLIC EMPLOYEES' RETIREMENT SYSTEM (OPERS) DISABILITY AND SURVIVOR BENEFITS**

1. Public employees and their survivors may be entitled to disability or survivor benefits in accordance with the rules and regulations of OPERS.
2. Information regarding disability and survivor benefits can be obtained through OPERS. See contact information at Section 5.01 (B)(1).

**E. ACCRUED LEAVE**

1. At the time of separation, an employee will be paid at his/her current hourly rate of pay for all vacation and compensatory time credit. To be eligible to receive the vacation time, the employee must have at least one (1) year of service with the County or any political subdivision of the state.

**F. OUTSTANDING CHARGES/EXPENSES**

1. Employees who owe Employer money, either during their time of employment or after their exit of employment, for reasons such as training reimbursement, damage to property (unintentional or not), etc., may be required to reimburse Employer, and said cost could be withdrawn from their pay. Damage to property may be withdrawn, as long as Employee's pay does not reflect a wage lower than minimum wage. Employee may be asked to give consent in writing; however, this is not necessary to initiate the withdrawal.

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- A. Upon separation from employment, an employee must meet with his/her supervisor or with the Appointing Authority to process paperwork and return County property.
- B. The Appointing Authority or his/her designee will inform the employee of all termination benefits, verify forwarding addresses for the employee and any dependents, and obtain necessary signatures. (It is the responsibility of the employee to notify the Employer of a change of address for the purpose of mailing the employee his/her W-2 form.)
- C. The employee will relinquish all identification cards, equipment, keys and passwords.
- D. If a separation is voluntary, the employee will be asked to complete an Exit Interview Questionnaire and discuss his/her answers during the exit interview. Information gathered in exit interviews is used to evaluate County practices and identify areas requiring action to make the County a more attractive employer. Exit interview questionnaires will not be placed in the employee's personnel file. (See Appendices)

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