

UCOP Human Resources Procedure 66 – MEDICAL SEPARATION

- I. POLICY REFERENCES**
- UC-PPSM 20, Recruitment
 - UC-PPSM 43, Leave of Absence
 - UC-PPSM 44, Work-Incurred Illness and Injury
 - UC-PPSM 66, Medical Separation
 - UC-PPSM 81, Reasonable Accommodation

II. GENERAL

Employees who are unable to perform the essential, assigned functions of their positions due to a disability or medical condition, may be separated from employment. A regular (career) status employee under this policy is eligible for special re-employment procedures provided below.

III. RESPONSIBILITY

A Division or Department Head (or Supervisor) in consultation with Local Human Resources is responsible for initiating a medical separation.

IV. BASIS FOR SEPARATION

Before initiating a medical separation, the division or department shall consider reasonable accommodation possibilities as provided for in UC-PPSM 81, Reasonable Accommodation, and in accordance with the Federal Americans with Disabilities Act (ADA), in consultation with the UCOP Vocational Rehabilitation Counselor (VRC).

1. A medical separation shall be based on: (a) a written statement by the Division or Department Head (or Supervisor) describing the essential functions of the employee's position that he or she is unable to perform, and (b) a review by the UCOP Vocational Rehabilitation Counselor.

A medical separation may also be based on receipt of disability payments from a retirement system to which the University contributes, depending on circumstances. The University shall pay the reasonable costs of any medical examinations requested or required by the University.

2. An employee shall not be separated under this policy while on sick leave or extended sick leave (ESL). However, an employee may be separated from employment for medical or other reasons if the date of separation was set prior to the commencement of sick leave or ESL and if the employee is afforded all rights provided by the employee's retirement system.

If it is determined that an employee is unable to return to work for an indefinite period of time due to a disability or medical condition that is not work-incurred, the division or department is encouraged to evaluate, on a case-by-case basis, whether medical separation should occur after the employee has been on medical leave for six (6) months, counting from the first- (1st) day of unpaid leave. This evaluation should be made in consultation with the Local Human Resources.

V. WRITTEN DISABILITY OR MEDICAL SEPARATION PLAN

1. A Division or Department Head (or Supervisor) shall consult with Local Human Resources to develop a proposed written medical separation plan that should contain the following:
 - Reasons for the proposed medical separation;
 - A statement of the essential, assigned functions of the employee's position that he or she is unable to perform due to their disability or medical condition;
 - A current position description;
 - Reasonable accommodations made to date, if any, including duration of leaves of absences with or without pay, reduced scheduling, flexible scheduling, and/or modified duty;
 - Medical reports and/or certifications or related documentation; and other pertinent information or materials, as appropriate.
2. The proposed written medical separation plan should then be submitted to Accommodation and Leave Services for review and analysis which includes the following:
 - Review and analysis of essential job duties of the current position description and physical requirements of the position;
 - Review and analysis of reasonable accommodations made by the department;
 - Review and analysis of medical reports and/or certifications, including restrictions if any, provided by the employee;
3. The UCOP VRC will schedule follow-up consultations, as appropriate, with
 - the employee's health care provider (contingent upon a written release from the employee);
 - additional medical examinations by a University physician, if warranted; and
 - consideration of alternative accommodations, if any.
4. The UCOP VRC will prepare a written report of his or her review and analysis, and offer recommendations accordingly.

VI. NOTICE OF INTENT TO MEDICALLY SEPARATE

Employees shall be given advance written notice of the intention to separate their employment by the supervisor in consultation with Local Human Resources. The "notice of intent" shall state the reason for medical separation from employment; include copies of the Division or Department Head's (or Supervisor's) statement of the employee's inability to perform the essential, assigned functions of his or her position description; and any other pertinent material considered in making this decision. Additionally, the notice shall state that the employee has the right to respond either orally or in writing within eight- (8) calendar days of the date of issuance of the notice of intent regarding the medical separation.

The notice of intent shall clearly identify the person to whom the employee is to direct his or her response. Ordinarily, the person to whom the response is to be directed to the *Official Reviewer*, who should be at least one administrative level higher in the direct organizational structure than the person who issues the notice of intent. A copy of the medical separation report shall accompany the notice of intent.

The employee may be assisted by a representative of his or her choosing, except that a supervisory or confidential employee may not represent a non-supervisory or non-confidential employee, respectively, and a non-supervisory or

non-confidential employee or employee organization representative may not represent a supervisory or confidential employee, respectively.

After the employee has responded, or after eight- (8) calendar days, whichever comes first, the Official Reviewer shall review the employee response in consultation with Local Human Resources, and shall notify the employee in writing of the action to be taken.

If medical separation is to be effected, the employee shall be given written notice of the medical separation date and the right to appeal. The effective date of medical separation shall be at least ten- (10) calendar days from the date of issuance of notice of medical separation or eighteen- (18) calendar days from the date of issuance of the notice of intent to medically separate, whichever is later. A copy of the final notice of medical separation will be placed in the employee's personnel file and copies provided Manager, UCOP Benefit Services (or designee).

VII. SPECIAL REAPPOINTMENT PROCEDURES

For a period of one- (1) year following the date of medical separation, a former employee may be selected for a position without the requirement that the position be publicized (UC-PPSM 20, Recruitment). The Manager, UCOP Employment and Staffing Services, in coordination with the Accommodation and Leave Services will identify job titles for which the medically separated employee appears to meet the general qualifications. The former employee will be required to submit medical certification of his or her ability to return to work. When a vacancy occurs in an identified job title, the Manager, UCOP Employment and Staffing Services (or designee) will refer the employee to the appropriate hiring authority for consideration prior to job posting. Special re-employment procedures do not guarantee re-employment.

VIII. BENEFITS (DISABILITY AND HEALTH)

It is not necessary to medically separate an employee who is approved for UCRP Disability Income in order to provide access to special reappointment procedures (see UC-PPSM 81. E). The Division or Department (or Supervisor) should advise the UCOP VRC of the employee's acceptance of UCRP Disability Income benefits.

Employees should also be advised to see the Manager, UCOP Benefit Services (or designee) regarding long-term disability, retirement, or COBRA benefits entitlements.