Background

This policy applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding this subject.

To define the eligibility, duration and return from leave requirements for Medical Leave of Absence Without Pay and Disability Leave of Absence Without Pay. Absences of 15 consecutive calendar days or more are considered a leave of absence; however, the leave is effective retroactively to the first day of absence.

Policy

1. As an alternative to a Medical or Disability Leave of Absence Without Pay, an employee may pursue the following option: when an employee becomes incapacitated to such an extent that he or she cannot perform the duties of his or her position, that employee may request a transfer to a vacant position or alternative classification with duties that the employee can perform. Such request shall be made to the supervisor/manager/director and the decision to grant the request shall be made taking into account the advice of the Human Resources Department, Employee Disability Services and information provided by the employee’s licensed health care professional.

2. When an employee becomes incapacitated to such an extent that he or she cannot perform the duties of his or her position and the employee has exhausted his or her sick leave (time) and either (a) that employee does not request transfer to a vacant position or alternative classification or (b) that employee is incapacitated to such an extent that he or she cannot perform the duties of any appropriate vacant position or alternative classification, the administrative authority may place the employee on a Medical Leave of Absence Without Pay or a Disability Leave of Absence Without Pay using the following parameters:

   a) A Medical Leave of Absence Without Pay will be granted only if evidence can be presented as to the probable date on which the employee will be able to return to work, unless the employee is within the time frame where he or she
is entitled to FMLA protection. The probable return date must fall within six
months of the commencement of no pay status. If the probable date of return
is not within six months of commencement of no pay status, the employee will
be placed on a Disability Leave of Absence Without Pay, unless the
employee is within the time frame where he or she is entitled to FMLA
protection. [see 2(c) below].

i. Prior to being placed on a Medical Leave of Absence Without Pay
the employee may elect to utilize any or all accrued vacation and/or
compensatory time in order to remain in pay status. Such election
by the employee shall be irrevocable and is subject to the approval
of the supervisor/manager/director.

ii. An employee shall not receive pay for holidays which fall within the
period of the Medical Leave of Absence Without Pay.

b) The maximum length of a Medical Leave of Absence Without Pay is six
months from the commencement of no pay status. If, at the end of the six
month period, the employee is unable to return to work because of a
documented ongoing medical reason, he or she will be placed on a Disability
Leave of Absence Without Pay [see 2(c)] for a maximum duration of 36
months (6 months Medical Leave of Absence Without Pay and 30 months
Disability Leave of Absence Without Pay).

c) If the employee cannot furnish a probable date for return to work or if the
probable date of return is not within six months of commencement of no pay
status, the employee will be placed on a Disability Leave of Absence Without
Pay for a maximum duration of 36 months or as stipulated by the applicable
collective bargaining agreement, unless the employee is within the time frame
where he or she is entitled to FMLA protection.

i. Prior to being placed directly into a Disability Leave of Absence
Without Pay status (because the employee cannot furnish a
probable date for return to work), the employee may elect to utilize
any or all accrued vacation and/or compensatory time to remain in
pay status. Such election by the employee shall be irrevocable.
Such requests must be approved by the
supervisor/manager/director.

ii. An employee shall not receive pay for holidays which fall within the
period of the Disability Leave of Absence Without Pay.

iii. Unless prohibited by the Family and Medical Leave Act (FMLA)
because the employee is still within a designated leave of absence
period, the administrative authority may require a physical
examination conducted by a licensed health care professional
designated by the university when an employee is placed on a
Disability Leave of Absence Without Pay. The administrative
authority will consult with the Human Resources Department to
determine the employee’s rights regarding requiring the employee to have a physical exam.

iv. The university shall pay the cost of such examination.

v. Employees may be required to provide proof of ongoing disability while on Disability Leave of Absence Without Pay. Such requests will be handled through the Human Resources Department.

3. An employee on Medical Leave of Absence Without Pay or Disability Leave of Absence Without Pay should consult with the Human Resources Department regarding eligibility for and continuation of benefits.

   a) For the first 12 months of unpaid Leave of Absence (Medical and/or Disability), the university will continue its regular contribution to medical, dental and employee life insurance and other applicable benefits as long as the employee makes his or her contributions as required.

   b) An employee on unpaid Leave of Absence (Medical and/or Disability) must make arrangements with the Human Resources Department in order to continue payments for his or her portion of the cost of benefits (if applicable) during the period that the employee is not receiving pay.

   c) After 12 months of unpaid Leave of Absence (Medical and/or Disability), the university will not contribute to medical, dental, employee life insurance or other applicable benefits. The employee must pay the full cost of these benefits.

   d) Retirement plan contributions will be made pursuant to the rules and regulations of the applicable pension system or plan.

4. If the employee is eligible to receive leave under the FMLA, the absence shall be designated as and counted against his or her remaining FMLA leave balance, up to the full allowed 12 weeks.

5. An unclassified employee, excluding AAUP-represented faculty and librarians, who becomes totally disabled and who was hired by the University of Cincinnati prior to September 1, 1974, and who has been continuously employed thereafter by the university, shall receive a leave of absence with pay, provided the disability continues beyond the employee's accumulated sick leave (time). The employee's accumulated sick leave (time) and the leave of absence with pay shall not together exceed 120 days of leave of absence with pay. For purposes of this paragraph, “totally disabled” shall be defined to be the inability of the employee, by reason of sickness or bodily injury, to engage in any occupation for which the employee is reasonably fitted by education, training or experience.

**Return to Work/Expiration of Medical Leave of Absence Without Pay**

6. Upon return to work from a Medical Leave of Absence Without Pay, the employee is to be returned to the position formerly occupied, or under certain circumstances to
an equivalent position, unless the position formerly occupied has been abolished.

7. Any person appointed to the position while an employee is on Medical Leave of Absence Without Pay is to be appointed on a temporary basis for the duration of the leave only.

8. If an employee fails to return to work at the expiration of an approved Medical Leave of Absence Without Pay and fails to provide proof of an ongoing medical reason, he or she will be notified by certified mail that if proof of ongoing medical reason is not submitted within 14 calendar days, the employee may be reported as "absent without authorized medical leave" and may be subject to disciplinary action up to and including termination of employment.

**Return to Work/Expiration of Disability Leave of Absence Without Pay**

9. Upon the expiration of the Disability Leave of Absence Without Pay, the employee may be returned to the position formerly occupied, if vacant, or, under certain circumstances, to an equivalent position unless the position formerly occupied has been abolished. If the employee is unable to return to work, he or she may be separated from employment unless the employee is within the time frame where he or she is entitled to FMLA protection. In this case, the employee can only be separated pursuant to an abolishment. See collective bargaining agreements for rules applicable to represented employees. For questions regarding the return to work or separation of a classified employee, contact Labor Relations and Policy Development.

**Procedure**

1. Employees must complete and submit the appropriate Time Off From Work Form or other form (electronic or otherwise) as designated by their organizational unit to their administrative authority for approval as soon as possible.

2. Follow university leave of absence administration processes.