

## Procedure 66: Medical Separation

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**Responsible Office:** Human Resources

**Revised:** February 2020

### A. Purpose and Scope

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1. UC Irvine Personnel Procedure 66, Medical Separation implements PPSM-66, Medical Separation.
2. This procedure applies to all staff members, except employees who are in a bargaining unit that has an exclusive representative (union) and are covered by the applicable provisions of the collective bargaining agreement.

### B. Authority and Responsibility

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The department head is responsible for taking and/or approving any Medical Separation action. Consultation with Human Resources Business Partner and Vocational Rehabilitation Consultant (VRC) is required prior to taking any action.

### C. Guidelines

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UC Irvine Procedure 66, Medical Separation, describes the basis for medically separating a non-probationary, career (regular status) employee from University employment when the employee can no longer perform the essential functions of the employee's position with or without reasonable accommodation due to a disability, and reassignment is not an option under PPSM-81, Reasonable Accommodation.

1. The University will engage in the interactive process in accordance with the provisions of PPSM-81, Reasonable Accommodation.
  - a. The interactive process will include offering the employee the option to explore reassignment, if appropriate.
  - b. An employee medically separated under this procedure is eligible for special reemployment as described in PPSM-66, Medical Separation.
  - c. The employee and University representatives are expected to participate in the interactive process in good faith. For the employee, that good faith obligation includes promptly responding to the University's reasonable requests for information about the employee's functional limitations, including requests for supporting documentation from the employee's health care providers.

### D. Procedures

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#### Interactive process

The interactive process will be initiated by the University when the employee formally or informally requests an accommodation or the University otherwise has reason to believe that the employee may need assistance in performing the essential functions of the employee's current position due to a disability.

- A request for accommodation may be made orally or in writing by the employee, or made by someone on behalf of that employee.
- The University will coordinate the interactive process. Participants in the process include the employee and supervisor. Other University representatives may include, but are not limited to, UC Irvine VRC or appropriate Human Resources representatives.

1. The interactive process includes the following steps:

- a. In consultation with the assigned Human Resources Business Partner, the supervisor will analyze the job requirements and identify essential and non-essential job functions. A job function may be considered essential for any of several reasons, including but not limited to the function may be essential if the job exists to perform that function.
- b. The department head will review the situation to ensure that the employee has had an opportunity for reasonable accommodation in accordance with PPSM-81, Reasonable Accommodation.

### **Exhaustion of the interactive process**

If the employee cannot be reasonably accommodated in the current position absent undue hardship but there is a possibility that the employee could perform other University work and the employee is interested in reassignment, reassignment in accordance with PPSM-81, Reasonable Accommodation, will be pursued unless the employee declines that option. If reassignment is pursued but not successful, the reassignment effort will be documented, including an explanation of why the employee cannot be reasonably accommodated through reassignment.

1. The department head, in consultation with the assigned Human Resources Business Partner and VRC will determine next appropriate action. There are two circumstances that an employee may be medically separated:
  - a. The interactive process has been exhausted and a determination is made that the employee cannot be reasonably accommodated absent undue hardship; or
  - b. The employee has been approved for disability benefits from a retirement system to which the University contributes.
2. If the department proposes a medical separation:
  - a. The department head will submit a Request for Medical Separation of Employee to the designated Human Resources Business Partner and VRC, with a copy to Benefits.
  - b. The request shall include supporting data including employee's job description, medical documentation submitted by the employee, any documentation relevant to attempted accommodation of the employee, and any other supporting documentation as requested.

### **Medical separation based on exhaustion of the interactive process and determination that employee cannot be reasonably accommodated**

1. Department head or designee prepares a written statement describing the essential functions the employee is unable to perform. This statement should contain the following:
  - a. A description of the essential functions of the position that the employee is unable to perform, with or without reasonable accommodation, due to the disability.
  - b. An explanation of why the employee cannot be reasonably accommodated in the employee's current position, including, where applicable, whether reasonable accommodations were attempted and were unsuccessful.
  - c. Relevant documentation from the employee's health care providers.
  - d. Written documentation of the interactive process conducted at the department level.
  - e. A current job description and/or other documentation that outlines essential and non-essential job functions, documentation of the functional limitations and any other information relevant to the medical separation.
  - f. Other pertinent information.

2. The written statement and supporting materials are submitted to the local VRC or other appropriate University representative for review.
3. Vocational Rehabilitation Consultant (VRC) or other appropriate University representative reviews the department head or designee's written statement and supporting materials to ensure that the interactive process was appropriately completed and documented at the department level.
4. Vocational Rehabilitation Consultant (VRC) or other appropriate University representative prepares a written review documenting that the interactive process was exhausted and confirming that no reasonable accommodation could be provided without causing an undue hardship.
  - a. This statement will either document that the alternative job search was conducted under PPSM-81, Reasonable Accommodation, or include an explanation of why it was not conducted.

**Medical separation based on employee's receipt of or approval to receive disability payments from a retirement system**

1. Employee provides VRC or other appropriate University representative documentation establishing the employee's receipt of (or approval to receive) disability payments from a retirement system to which the University contributes, such as UCRP or PERS.
2. Vocational Rehabilitation Consultant (VRC) or other appropriate University representative prepares a written review documenting that the interactive process was conducted.

**E. Leave Entitlements prior to Medical Separation**

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Except as provided in PPSM-66, Medical Separation, an employee will not be medically separated under this policy when:

1. The employee is actively using sick leave.
2. While using extended sick leave.
3. Prior to the exhaustion of all leave to which the employee may be entitled under the Family and Medical Leave Act, the California Family Rights Act, and/or the California Pregnancy Disability Leave Law.

An employee who is a member of the Senior Management Group may be medically separated after exhausting any leave provided to the employee under PPSM-II-42, Disability Leave, whether or not the employee still has accrued sick leave or PTO remaining.

An employee who is a safety employee may be medically separated after receiving leave with full salary for a period not exceeding one year in accordance with PPSM-2.210, Absence from Work, regardless of whether the employee still has accrued sick leave remaining. Safety employees are:

1. Members of the University of California Police Department whose principal duties consist of active law enforcement; or
2. Members of the University of California Fire Department whose principal duties consist of active firefighting and prevention service.

## **F. Supporting Documentation**

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The University may request that the employee provide documentation from the employee's health care provider to confirm that the employee has a disability and to identify the employee's functional limitations. The employee has an obligation to promptly comply with such requests.

The information in this documentation may be subject to confirmation by the University. When the University determines that such confirmation is necessary, the University may require that the employee be examined by a University-appointed licensed health care provider. In such circumstances, the University will pay the costs of the examination and reimburse the employee for any reasonable out-of-pocket travel expenses incurred in connection with the examination.

## **G. Notices**

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### **Notice of Intent to Medically Separate**

1. The University will provide the employee with advance written notice of the University's intention to medically separate the employee. This notice will include the following:
  - a. State the reason for the intended medical separation.
  - b. Include copies of the statement prepared by the department head or designee and any other pertinent material considered, including the written review prepared by the VRC or other appropriate University representative.
  - c. State that the employee has the right to respond orally or in writing within eight (8) calendar days regarding the intended medical separation.
  - d. After the employee has responded or after eight (8) calendar days, whichever comes first, management will review the response, if any, and inform the employee of the action to be taken.
2. If the University has determined that proceeding with medical separation is appropriate, the University will provide the employee with advance written notice of the medical separation date and notice of the right to appeal.
3. The effective date of medical separation will be at least ten (10) calendar days from the date of the University's issuance of the 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.

### **Notice of Medical Separation**

1. If the University has determined that proceeding with medical separation is appropriate, the University will provide the employee with advance written notice of the medical separation date and notice of the right to appeal.
2. The effective date of medical separation will be at least ten (10) calendar days from the date of the University's issuance of the 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.

## **H. Special Reemployment**

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To be considered for Special Reemployment, an employee who has been medically separated must notify the University of their interest and provide documentation from a licensed health care provider that establishes that the former employee has been medically released to return to work, with or without reasonable accommodation.

After such notice and documentation are provided, for a period of one year following the date of a medical separation, the University will assist the former employee in identifying appropriate positions for which the former employee may apply at the same location. If the former employee receives disability benefits from a retirement system to which the University contributes, the Special Reemployment period will be three (3) years from the date benefits commenced.

If the former employee is reemployed within the allowed period, a break in service does not occur.

In Special Reemployment situations, the employee may be selected for a position without the requirement that the position be publicized, per PPSM-20, Recruitment and Promotion.

## **F. References**

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### Personnel Policies for Staff Members

- Policy 20, Recruitment and Promotion
- Policy 66, Medical Separation
- Policy 70, Complaint Resolution
- Policy 81, Reasonable Accommodation

### Personnel Procedures for UCI Staff Members

- Procedure 81, Reasonable Accommodation

## Exhibit A: Sample Written Notice of Intent to Medically Separate

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*Date*

*Name*

*Title*

RE: Written Notice of Intent to Medically Separate

In accordance with Personnel Policies for UC Staff Members, PPSM-66, Medical Separation, this is to inform you that effective [enter date at least eighteen (18) calendar days from date of issuance], I intend to Medically Separate you from your position of [enter position title], in the Department of [enter department name].

This action is being taken as a result of [state the reason(s) for the medical separation].

You have the right to respond to me orally or in writing on or before eight (8) calendar days with reasons why this action should not be taken. You have the right to representation in presenting your response.

Supervisor

cc: Department Head  
Human Resources Business Partner  
Vocational Rehabilitation Consultant

Attachments:

Medical Separation Review Request

[Documentation as appropriate]

Proof of Service dated \_\_\_\_\_

## Exhibit B: Sample Written Notice of Medical Separation

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*Date*

*Name*

*Title*

RE: Written Notice of Medical Separation

After careful review of the information you provided me on [enter date], in your response to the Notice of Intent to Medically Separate, I find no basis to rescind the intended action. Therefore, effective [enter date], you will be medically separated from your position with [enter department name].

Please contact [enter name], Benefits Representative, at [enter phone number] to discuss the important options available to you regarding your benefits.

You have the right to request a review of this action under Personnel Policies for UC Staff Members, PPSM-70, Complaint Resolution.

Supervisor

cc: Department Head  
Human Resources Business Partner  
Benefits Representative  
Vocational Rehabilitation Consultant

Attachment: Proof of Service dated \_\_\_\_\_

## **Exhibit C: Sample Proof of Service: Personal Delivery**

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### **PROOF OF SERVICE**

#### **Personal Delivery**

I declare that I am over the age of eighteen (18) years and am not a party to the action described in the attached notice. My work address is University of California, Irvine, [enter department/unit name and address]. On [enter date], I personally delivered the attached [Written Notice of Intent to \_\_\_\_\_ or Written Notice of \_\_\_\_\_] to:

[Name of Recipient]

[Address]

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on [enter date] at [city and state].

Signature

[enter name of signer and title]

## **Exhibit D: Sample Proof of Service: Delivery by U.S. Mail**

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### **PROOF OF SERVICE**

#### **Delivery by U. S. Mail**

I declare that I am over the age of eighteen (18) years and am not a party to the action described in the attached notice. My work address is University of California, Irvine, [enter department/unit name and address]. On [enter date], I personally delivered the attached [Written Notice of Intent to \_\_\_\_\_ or Written Notice of \_\_\_\_\_] by placing a true copy enclosed in a sealed envelope with postage fully paid in the United States mail, addressed as follows:

[Name of recipient]

[Address]

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on [enter date] at [city and state].

Signature

[enter name of signer and title]