

DAS Directive

Directive No. **HR-D-10**
Effective Date: **09-01-2009**



To: All Appointing Authorities and Human Resources Administrator
From: Hugh Quill, *Director of Administrative Services*
Re: Administrative Leave with Pay

PURPOSE

To provide uniform guidelines and procedures for the implementation of section 124.388 of the Ohio Revised Code for those employees covered by civil service or applicable collective bargaining agreements. Leave authorized under this section of the Revised Code is incident specific and primarily authorized in circumstances where health and safety could be adversely affected.

GENERAL

Administrative Leave with Pay

Normally, public sector employees are expected to use their own leave in order to be compensated for absences away from the work site. Appointing authorities may, at their discretion, place an employee on administrative leave with pay, but the agency head or designee must sign and approve the paid leave. Employees should only be placed on administrative leave with pay when immediate action must be taken to remove an employee from the work site because of a threat to the health and/or safety of an employee, or a threat to property entrusted to that employee. For example, a fire, bomb threat or utility failure that causes the immediate evacuation of a building may result in all employees being granted administrative leave pending the remedying of the health threatening emergency. An appointing authority may also grant up to two days of administrative leave with pay to employees who are transferred in accordance with section 124.33 of the Revised Code.

Compensation for administrative leave with pay shall be equal to the employee's base rate of pay, and shall not continue beyond the length of the situation for which the leave was granted.

Administrative Leave Pending Completion of Investigation

In cases where no viable alternatives are available, it is permissible to place an employee on administrative leave with pay pending a review, investigation or disciplinary proceeding surrounding the situation that resulted in the employee being placed on a paid leave of absence. In such cases, the chief legal counsel or designee for the appointing authority must be consulted. Administrative leave with pay shall be authorized for the period of time necessary to conduct the internal administrative review or investigation, and shall include the period of time needed to decide whether to impose discipline.

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In most situations where the primary concern is the health or safety of the general work force, options may be limited and an administrative leave with pay may be the most appropriate option. If, however, the primary concern is the health or safety of a particular individual, or group of individuals, a modification of duties, a temporary reassignment to another position or another work area or a reassignment to another work shift may suffice to limit access to the person(s) whose health or safety may be endangered, thereby avoiding the need to place an individual on administrative leave with pay.

In situations where the primary concern is the safety of property, it may be possible to remove access to state property either through a modification of job duties and responsibilities, a temporary reassignment to another position or a reassignment to another work area so that no property is entrusted to an employee who could adversely affect or destroy the property.

Each situation will differ and will require a case-by-case determination. Compensation for an employee placed on administrative leave with pay pending the review, investigation or disciplinary proceeding shall be equal to the employee's base rate of pay and the employee will continue to accrue leave and service credit. Thus, it is imperative that such leaves be closely monitored, and that administrative and/or criminal investigations be processed promptly.

Independent Criminal Review

If a review by the appointing authority produces evidence sufficient to warrant an independent criminal review or investigation, and the health or safety of an employee or any person or property entrusted to the employee's care continues to be at issue, the employee may remain on administrative leave with pay pending review, investigation, or any legal proceedings under Title 29 of the Revised Code. Compensation for administrative leave with pay pending the independent criminal investigation shall be equal to the employee's base rate of pay.

Length of Leave

The appointing authority or designee shall be responsible for monitoring the status of the administrative investigation and the length of time that an employee is on administrative leave with pay. Monitoring shall be done by the appointing authority or designee at appropriate intervals.

An appointing authority may put an employee on administrative leave with pay for a period of up to three months. After such time, a comprehensive review must be conducted by the appointing authority or designee to determine if extenuating or mitigating circumstances would require extending the administrative leave with pay.

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Employee Notification

Employees placed on administrative leave with pay pending the completion of an investigation shall be notified at the outset of the leave that they:

- a. Shall be in a work-ready status at all times during their regular scheduled time, and must be able to report to work with short notice.
- b. Shall stay off of the property of the employer during the leave.
- c. Shall call the employer prior to making arrangements to conduct business or to otherwise be on the property of the employer.
- d. Shall make arrangements with the employer for the issuing of paychecks, the processing of vacation, personal and other leave requests, as well as other personnel or employee benefits matters.
- e. Shall not hold another job during the hours they are normally scheduled to work. If employees work during such hours, they will forfeit the administrative leave with pay and will be subject to discipline.

Job Modifications and Reassignments

Instead of placing an employee on administrative leave with pay, an employee may be temporarily reassigned to a vacancy or another position within the same classification. Alternatively, an employee's duties may be modified within their job classification to limit the conditions and circumstances which create the health or safety concern. An employee may be reassigned to any position or placed in any available vacancy within their job classification for which the minimum job qualifications are met. An employee temporarily reassigned to fill an available vacancy, or an employee temporarily reassigned to another position, shall be entitled to compensation equal at least to the employee's regular base rate of pay. Temporary reassignments and modification of duties shall continue only during such period pending an investigation and do not constitute a reduction in duties, position or reclassification.

Nothing herein shall prevent an appointing authority from imposing appropriate discipline up to and including termination. The Office of Collective Bargaining should be consulted for the uniform application of this directive.

This directive supersedes any previously issued directive or policy and will remain effective until canceled or superseded.

AUTHORITY & REFERENCE

ORC 124.388
OAC 123:1-45-01