



# PPSM-66: Medical Separation

*\*Management Consultation Draft – June 2018\**

<b>Responsible Officer:</b>	Vice President – Human Resources
<b>Responsible Office:</b>	HR - Human Resources
<b>Issuance Date:</b>	<u>TBD6/1/2006</u>
<b>Effective Date:</b>	<u>TBD6/1/2006</u>
<b><u>Last Review Date:</u></b>	<u>TBD</u>
<b>Scope:</b>	<u>Non-probationary career (Regular Status) employees who are</u> Professional & Support Staff, Managers & Senior Professionals, and Senior Management Group Members

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## I. POLICY SUMMARY

The policy and procedures describe the basis for medically separating a non-probationary career (regular status) employee member from University employment when the employee can no longer perform the essential functions of the employee's his or her position with or without reasonable accommodation; due to a disability, and reassignment is not an option under Personnel Policies for Staff Members (PPSM) 81 (Reasonable Accommodation).

## II. DEFINITIONS

**Disability:** (1) A physical disorder or condition that limits a major life activity; (2) a mental or psychological disorder or condition that limits a major life activity; (3) a Medical Condition (as defined below); and (4) any other condition recognized as a disability under applicable law.

**Exception to Policy:** An action that exceeds what is allowable under current policy or that is not expressly provided for under policy. Any such action must be treated as an exception.

**Executive Officer:** The University President, ~~or~~ Chancellor, Laboratory Director, or Vice President–Agriculture and Natural Resources.

**Extended Sick Leave:** Leave provided to an eligible employee who has exhausted accrued sick leave and is unable to work due to a work-incurred injury or illness (See Section III.D.9.b of the Absence from Work policy).

**Interactive Process:** The process by which the University and the employee engage in a dialogue about the employee’s functional work limitations due to a disability and any accommodation that can be provided that would allow the employee to perform the essential functions of the position.

**Medical Condition:** (1) A cancer-related physical or mental health impairment from a diagnosis, record or history of cancer; or (2) a genetic characteristic that is known to be a cause of a disease or disorder that is associated with a statistically increased risk of development of a disease or disorder, though presently not associated with any disease or disorder symptoms.

**Top Business Officer:** Executive Vice President–Chief Operating Officer~~Business Operations~~ for the Office of the President, Vice Chancellor–Administration, or the position responsible for the location’s financial reporting and payroll as designated by the Executive Officer.

## III. POLICY TEXT

### A. General

A non-probationary career (regular status) employee may be medically separated if the employee~~who~~ becomes unable to perform the essential functions of the employee’s his or her position with or without reasonable accommodation, and reassignment is not an option under PPSM 81 (Reasonable Accommodation)~~may be separated.~~

Prior to medical separation, the University will engage in the interactive process in accordance with the provisions of PPSM 81 (Reasonable Accommodation). ~~As Staff Policy 81, Reasonable Accommodation:~~ part of the interactive process, the employee

PPSM-66: Medical Separation

will be offered the option to explore reassignment, if appropriate. An employee medically separated under this policy is eligible for special reemployment procedures as described in Section III.F.

**B. Basis for Medical Separation**

There are two circumstances in which medical separation is appropriate: (1) when the interactive process has been exhausted and a determination is made that the employee cannot be reasonably accommodated absent undue hardship; or (2) when the employee has been approved to receive disability payments from a retirement system to which the University contributes.

1. Medical Separation after Exhaustion of the Interactive Process and Determination that the Employee Cannot Be Reasonably Accommodated Without Causing Undue Hardship

In these circumstances, the

A medical separation ~~will~~ shall be based on: (a) a written statement by the department head describing the essential functions the employee is unable to perform; and (b) a written review prepared by a Disability Manager, vocational rehabilitation counselor, or other appropriate University representative, documenting that the interactive process was exhausted and confirming ~~etermining~~ that no reasonable accommodation ~~could be provided~~ exists without causing undue hardship per PPSM Personnel Policies for Staff Members 81 (Reasonable Accommodation) ~~(see)~~.

2. Medical Separation Based on Employee's Approval to Receive Disability Payments from a Retirement System to Which the University Contributes

In these circumstances, the

A medical separation ~~will~~ may also be based on: (a) documentation establishing the employee's receipt of (or approval to receive) of disability payments from a retirement system to which the University contributes, such as UCRP or PERS; and (b) a written review prepared by a Disability Manager, vocational rehabilitation counselor, or other appropriate University representative, documenting determining that the interactive process was conducted ~~no reasonable accommodation exists~~ without causing undue *hardship*.

**C. Leave Entitlements Prior to Medical Separation**

1. Except as provided in Section III.C.3, aAn employee ~~will~~ shall not be medically separated under this policy: (a) while the employee is actively using ~~while on~~ sick leave; (b) ~~or while using E~~ extended ~~S~~ sick ~~L~~ leave; ~~except as provided under Section 3 below. However, an employee may be separated for medical or other reasons if the date of separation was set prior to the commencement of sick leave or extended sick leave and if the employee is afforded all rights provided by the employee's retirement system~~ (c) while using the extended illness and bereavement leave bank provided under a Paid Time Off (PTO) program; or (d) 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.

2. 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 remaining.
  
3. An employee who is a law enforcement member of the University of California Police Department or in active firefighting and prevention service in a University of California Fire Department may be medically separated after receiving leave with full salary for a period not exceeding one year, in accordance with PPSM 2.210.III.D.9.d (Absence from Work—Leave Related to an Employee's Work-Incurred Injury or Illness—Safety Employees), regardless of whether the employee still has accrued sick leave remaining~~Staff Policy 2.210.III.D.9.d (Absence From Work—Leave Related to an Employee's Work-Incurred Injury or Illness—Safety Employees).~~

#### **C.D. Medical Documentation**

The University may request that the employee provide documentation establishing that the employee has a disability, and the employee has an obligation to promptly comply with such a request.

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 ~~Proof of the employee's disability or medical condition is required and is subject to verification by~~ a University-appointed licensed health care provider. In such circumstances, t~~The University will~~shall pay the costs of ~~any medical~~the examination~~s requested or required by the University~~and reimburse the employee for any reasonable out-of-pocket travel expenses incurred in connection with the examination.

#### **D.E. Notices**

An employee will ~~shall~~ be given advance written notice of the University's intention to medically separate the employee. The notice will state the reason for medical separation; include copies of the department head's statement and any other pertinent material considered, including the written review prepared by the Disability Manager or other appropriate University representative; and state that the employee has the right to respond orally or in writing within 8 calendar days regarding the proposed medical separation. After the employee has responded or after 8 calendar days, whichever comes first, management will review the response, if any, and inform the employee of the action to be taken~~have passed, the employee shall be notified of the decision~~. If it has been determined that proceeding with medical separation is appropriate, the employee will be given advance written notice of the separation date and notice of the right to appeal.

The effective date of separation will be at least 10 calendar days from the date of issuance of the notice of separation or 18 calendar days from the date of issuance of

the notice of intention to medically separate, whichever is later.

#### **E.F. Special Reemployment Appointment Procedures**

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

After such notice and documentation are provided, fFor a period of one year following the date of a medical separation, the University will assist a former employee in identifying appropriate positions for which the former employee may apply at the same location. ~~I may be selected for a position without the requirement that the position be publicized, per Personnel Policies for Staff Members 20.III.B.3 (Recruitment – Exceptions). However,~~ if the former employee receives disability benefits from a retirement system to which the University contributes, the Special Reemployment period will be three years from the date benefits commenced. If an employee is reemployed~~appointed~~ within the allowed period, a break in service does not occur.

In such circumstances, the employee may be selected for a position without the requirement that the position be publicized, per PPSM 20.III.G.3 (Exemptions).

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## **IV. COMPLIANCE / RESPONSIBILITIES**

### ***A. Implementation of the Policy***

The Vice President–Human Resources is the Responsible Officer for this policy and has the authority to implement the policy. The Responsible Officer may develop procedures or supplementary information to support the implementation of this policy. Such supporting documentation does not require the approval of the President. The Responsible Officer may apply appropriate interpretations to clarify the policy provided that the interpretations do not result in substantive changes to the underlying policy. The Chancellor, Lawrence Berkeley National Laboratory Director, and Vice President–Agriculture and Natural Resources ~~are~~ is authorized to establish and ~~are~~ responsible for local procedures necessary to implement the policy.

In accordance with *PPSM 1 (General Provisions)*, the authorities granted in this policy may be redelegated except as otherwise indicated.

### ***B. Revisions to the Policy***

The President is the Policy Approver and has the authority to approve policy revisions upon recommendation by the Vice President–Human Resources.

The Vice President–Human Resources has the authority to initiate revisions to the policy, consistent with approval authorities and applicable *Bylaws* and *Standing Orders* of the Regents.

The Executive Vice President–Business Operations has the authority to ensure that

PPSM-66: Medical Separation

policies are regularly reviewed, updated, and consistent with other governance policies.

**C. Approval of Actions**

Actions within this policy must be approved in accordance with local procedures. Chancellors and the Vice President–Human Resources are authorized to determine responsibilities and authorities at secondary administrative levels in order to establish local procedures necessary to implement this policy.

All actions applicable to PPSM-covered staff employees who are not Senior Management Group members that exceed this policy, or that are not expressly provided for under any policy, must be approved by the Vice President–Human Resources unless otherwise indicated.

**D. Compliance with the Policy**

The following roles are designated at each location to implement compliance monitoring responsibility for this policy:

The Top Business Officer and/or the Executive Officer at each location will designate the local management office to be responsible for the ongoing reporting of policy compliance.

The Executive Officer is accountable for monitoring and enforcing compliance mechanisms and ensuring that monitoring procedures and reporting capabilities are established.

The Vice President–Human Resources is accountable for reviewing the administration of this policy. The Director–HR Compliance will may periodically monitor compliance to this policy.

**E. Noncompliance with the Policy**

Noncompliance with the policy is handled in accordance with PPSM Staff Members 62, 63, and 64, and with PPSM-II 64 pertaining to disciplinary and separation matters.

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**V. REQUIRED PROCEDURES**

Any Local Procedures ~~shall be~~ implemented will be consistent in accordance with the following Universitywide Procedures.

**A. The Interactive Process General**

The Disability Manager or other appropriate University representative is responsible for facilitating the interactive process and documenting those efforts. 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.III.D (Reasonable Accommodation—Reassignment) will be considered, unless the employee waives that option. If reassignment is considered but not successful, the

PPSM-66: Medical Separation

reassignment effort will be documented, including an explanation of why the employee cannot be reasonably accommodated through reassignment.

The interactive process is exhausted when a determination has been made that the employee cannot be reasonably accommodated in the employee's own position or through reassignment without causing undue hardship. At that point, the department may propose medical separation.

~~A regular status employee who becomes unable to perform essential functions of his or her position with or without reasonable accommodation, due to a disability, may be separated.~~

~~Prior to any medical separation, the University will engage in the interactive process in accordance with the provisions of Staff Policy 81—Reasonable Accommodation.~~

~~An employee separated under this policy is eligible for special reemployment procedures, as outlined in PPSM 66.E—Special Reappointment Procedures.~~

**B. Medical Separation Basedis on Exhaustion of the Interactive Process and Determination that Employee Cannot Be Reasonably Accommodatedfor Separation**

In these circumstances, the (1) A medical separation is based on: (a) a written statement by the department head describing the essential functions the employee is unable to perform; and (b) a written review by a Disability Manager~~vocational rehabilitation counselor~~, or other appropriate University representative, documentingdetermining that no reasonable accommodation could be providedexists without causing an undue hardship. The Disability Manager's review will either document that the alternative job search was conducted under PPSM 81.III.D (Reasonable Accommodation—Reassignment) or include an explanation of why it was not conducted.

The written statement by the department head should contain the following:

- a description of the essential functions of the position that the employee is unable to perform, with or without reasonable accommodation, due to their ~~disability or medical condition~~;
- an explanation of why the employee cannot be reasonably accommodated in the employee's current position within the department, including, where applicable, whether reasonable accommodations were attempted and were unsuccessfulfailed;
- medical documentation;
- written documentation of the ~~i~~Interactive ~~p~~Process conducted atwithin the departmental level; and
- other pertinent information.

A current job description, documentation of functional limitations, and any other information relevant to the medical separation will accompany the written statement.

The department head's written statement and supporting materialsAll documents will be

**University of California – Policy PPSM-66: Medical Separation**

**PPSM-66: Medical Separation**

submitted to the local Disability Manager, vocational rehabilitation counselor, or other appropriate University representative, for review.

The Disability Manager, vocational rehabilitation counselor, or other appropriate University representative, will then ~~reviews and analyzes~~ the department head's written statement and supporting ~~accompanying~~ materials to ensure that the interactive process was appropriately completed and documented at the departmental level.

~~The vocational rehabilitation counselor, or appropriate University representative, is responsible for continuing the Interactive Process until a location-wide review for reasonable accommodation is completed. This effort will be documented and include an explanation of why the employee cannot be reasonably accommodated location-wide.~~

~~If the employee cannot be reasonable accommodated at the end of the interactive process, the department may propose medical separation.~~

~~A medical separation may also be based on (a) the employee's receipt or approval of disability payments from a retirement system to which the University employee contributes, such as UCRP or PERS, and (b) a written review by a vocational rehabilitation counselor, or appropriate University representative, determining that no reasonable accommodation exists without causing undue hardship. (Employee may waive this review.)~~

~~(2) An employee may not be separated under this policy while on sick leave, extended sick leave, and Extended Sick Leave (ESL) provided under a Paid Time Off (PTO) program, except as provided under PPSM 66.B.3. However, an employee may be separated if the date of separation was set prior to the commencement of sick leave, extended sick leave, or ESL and if the employee is afforded all rights provided by the employee's retirement system.~~

~~(3) An employee who is a law enforcement member of the University of California Police Department or in active firefighting and prevention service in a University of California Fire Department may be medically separated after receiving leave with full salary for a period not exceeding one year, in accordance with Staff Policy 2.210.III.D.9.d (Absence From Work – Leave related to an Employee's Work- Incurred Injury or Illness – Safety Employees).~~

**C. Medical Separation Based on Employee's Approval to Receive Disability Payments**  
**Documentation**

In these circumstances, a medical separation is based on (a) documentation establishing the employee's receipt of (or approval to receive) disability payments from a retirement system to which the University employee contributes, such as UCRP or PERS; and (b) a written review by a Disability Manager or other appropriate University representative documenting that the interactive process was conducted. Proof of the employee's disability or medical condition is required and is subject to verification by a University-appointed licensed healthcare provider. The University pays the costs of any



#### **D. Recordkeeping Notices**

Copies of the notice of intent to separate and the final notice of medical separation are placed in the employee's personnel file. Any associated medical documentation should be treated as a confidential medical record for purposes of record storage.

~~The employee is given advance written notice of the intention to separate. The notice will:~~

- ~~a. state the reason for medical separation;~~
- ~~b. include a copy of the department head's statement and any other pertinent material, including documentation related to the interactive process and reasonable accommodation, if any;~~

~~c. state that the employee has the right to respond either orally or in writing within 8 calendar days regarding the medical separation; and~~

~~d. identify the person to whom the employee responds.~~

~~After the employee has responded or 8 calendar days have passed, the employee is notified of the decision. If it is determined that separation is appropriate, the employee is given advance written notice of the separation date and notice of the right to appeal. The effective date of separation will be at least 10 calendar days from date of issuance of notice of separation or 18 calendar days from date of issuance of notice of intention to separate, whichever is later. A copy of the final notice of medical separation is placed in the employee's personnel file. Any associated medical documentation should be treated as confidential medical records for purposes of record storage.~~

#### **E. Special Reappointment Procedures**

~~For a period of one year following the date of a medical separation, a former employee may be selected for a position without the requirement that the position be publicized (see Staff Policy 20.B.3 Exceptions to Recruitment). However, if the former employee receives disability benefits from a retirement system to which the University contributes, the period is three years from the date benefits commenced. If an employee is reappointed within the allowed period, a break in service does not occur. In addition to the procedures outlined above, the Responsible Officer may develop other procedures or supplementary information to support the implementation of this policy. Such supporting documentation does not require the approval of the President.~~

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## **VI. RELATED INFORMATION**

- [Personnel Policies for Staff Members 81 \(Reasonable Accommodation\)](#) (referenced in Sections I, III.A. and ~~Section III.B.~~ of this policy and Sections V.A. and V.B. of these procedures)
- [Personnel Policies for Staff Members 2.210.III.D.9.d \(Absence from Work—Leave Related to an Employee's Work-Related Incurred Injury or Illness—Safety Employees\)](#) (referenced in Section III.C.3B. of this policy and ~~Section V.B.3.~~ of these procedures)
- [Personnel Policies for Staff 20 \(Recruitment\)](#) (referenced in Section III.FE. of this policy and in ~~Section V.E.~~ of these procedures)

**University of California – Policy PPSM-66: Medical Separation**

**PPSM-66: Medical Separation**

- *Personnel Policies for Staff Members 1 (General Provisions)* (referenced in Section IV.A of this policy)
- *Personnel Policies for Staff Members 61, 62, 63, 64, 65, and 67* (referenced in Section IV.E. of this policy)*Personnel Policies for Staff Members 62, 63, and 64* (referenced in Section IV.E. of this policy)
- *Personnel Policies for Staff Members II-64 (Termination of Appointment)* (applicable to Senior Management Group Members) (referenced in Section IV.E of this policy)
- *Personnel Policies for Staff Members II-42 (Disability Leave)* (applicable to Senior Management Group members) (referenced in Section III.C.2 of this policy)

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## **VII. FREQUENTLY ASKED QUESTIONS**

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TBDNot applicable

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## **VIII. REVISION HISTORY**

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The following revisions were made as of [Month Day, Year]:

- Language expanded, clarified, and reformatted throughout
- Definitions added in Section II to provide clearer guidance
- “Special Reappointment” changed to “Special Reemployment” and text added in Section III to provide more guidance regarding that process
- Duplicative language removed from Section V

As a result of the issuance of this policy, the following document is rescinded as of the effective date of this policy and is no longer applicable:

- *Staff Personnel Policy 66 (Medical Separation)*, dated June 1, 2006

This policy was reformatted into the standard University of California policy template effective July 1, 2012.

~~As a result of the issuance of this policy, the following policy has been documents are rescinded as of the effective date of this policy and is are~~ no longer applicable:

- *Staff Personnel Policy 765 (Medical Separation)*, dated January 1, 1981