

Michigan Civil Service Commission

Regulation 6.09

Subject: Union Leave		
SPDOC No.: 18-08	Effective Date: January 1, 2019	Replaces: None (New)

1. Purpose

This regulation provides procedures for exclusively represented classified employees to take leave for union business and specified union activities.

2. CSC Rule References

6-3.9 Union Leave

A classified employee shall not engage in union activities during actual-duty time. A classified employee may engage in union activities only while on approved union leave or on off-duty time.

(a) Exclusively represented employees. An appointing authority may approve union leave for an exclusively represented employee only to the extent authorized in the rules and regulations.

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(c) Limitations and reporting requirements. The grant of authority for union leave is expressly conditioned on compliance with the following:

- (1) A classified employee is prohibited from engaging in union activities or political activities during actual-duty time. An appointing authority shall discipline any employee who engages in union activities or political activities during actual-duty time.*
- (2) A manager or supervisor is prohibited from permitting a classified employee to engage in union activities or political activities during actual-duty time. The appointing authority shall discipline a manager or supervisor who permits an employee to engage in union activities or political activities during actual-duty time.*
- (3) A classified employee shall accurately report on a biweekly basis the amount and type of union leave taken.*
- (4) An appointing authority shall accurately enter on a biweekly basis the amount of union leave reported by employees.*
- (5) The state employer or an appointing authority are prohibited from entering into any formal or informal written or unwritten agreement permitting classified employees to engage in union*

activities on actual-duty time or receive any compensation, benefit, or benefit accrual paid in whole or in part by the state for union activities.

- (6) *Each labor organization that has been certified as exclusive representative for at least one recognized bargaining unit shall receive paid leave credits of 2,088 hours per fiscal year to allow a single officer to be absent fulltime for union activities. The director may authorize or require appointing authorities to release employees on administrative leave for specified labor-relations activities, as provided in regulations. All other union leave is unpaid, but an exclusive representative may fully reimburse an agency for all associated employer payroll costs, including wages, taxes, benefits, and retirement contributions, to allow an employee to receive pay and benefits while on union leave as if in pay status.*

3. Definitions

A. Civil Service Commission Rule Definitions

1. ***Exclusive representative** means a labor organization granted recognition and certified as the sole representative of all employees in an appropriate unit.*
2. ***Labor organization** means an employee organization recognized by the state personnel director as (1) an exclusive representative of eligible employees or (2) a limited-recognition organization.*
3. ***Union activities** means activities undertaken on behalf of a labor organization, including, but not limited to, preparation for collective bargaining, collective bargaining, contract administration, grievance administration or adjustment, grievance hearings, meetings with the employer, organizational administration, attendance at union meetings, litigation, lobbying, labor relations training, and organizing.*
4. ***Union leave** means an absence from the performance of an employee's public duties as a member of the classified civil service to engage in union activities.*

B. Definitions in This Regulation.

1. **Contractual grievance** means a grievance under a collective bargaining agreement.
2. **Union** means an exclusive representative.

4. Standards

- A. **Paid Officer Leave.** A recognized union may designate one employee each fiscal year to be absent fulltime from regular duties in the classified service to represent the union and for union activities. The employee receives base pay, benefits, and seniority (i.e., continuous service hours) as if employed 80 hours per pay period. At least two weeks before each fiscal year, a union shall inform the state personnel director and state employer which employee will take this leave. If the officer separates or is removed from office, a union may designate another officer for the rest of the fiscal year. If the officer will be absent for over a month due to medical, parental, military, or other leave, a union

may request that the director authorize another employee to use this leave. The designation for January 1 through September 30 for 2019 must occur by January 4, 2019.

B. Paid Leave for Specified Union Activities.

1. **Qualifying activities.** Subject to operational needs, an appointing authority shall release an exclusively represented employee from regularly scheduled work without loss of regular pay or leave credits and with regular base pay, benefits, and seniority for the following:
 - a. Attendance for one contractually authorized union representative at a disciplinary conference and at one agency-level grievance conference chosen by the union.
 - b. Reasonable travel to and from, attendance at, and 15 minutes of preparation time for a scheduled arbitration in a contractual grievance for one contractually authorized union representative.
 - c. Attendance at scheduled negotiations with (1) the state employer for the greater of four employees or the number of employer representatives designated by the state employer for primary bargaining and (2) the departmental employer for the greater of two employees or the number of employer representatives designated by the state employer for secondary bargaining.
 - d. Reasonable travel to and from and attendance at impasse-panel proceedings for (1) three employees for primary impasse and (2) one employee for secondary impasse.
 - e. Attendance at a scheduled meeting of a committee as established and at a frequency identified in an approved primary agreement for (1) the greater of two employees or the number of employer representatives designated by the state employer for the meeting for statewide (i.e., affecting all agencies with employees represented by the union) committees and (2) the greater of one employee or the number of employer representatives designated by the appointing authority for the meeting for non-statewide committees.
2. **Limits.** Release on paid leave for specified union activities is subject to operational needs. Paid leave for a representative to investigate is not authorized. Overtime, travel, and expenses are not authorized. Time on paid leave for specified union activities does not count as time worked for overtime qualification or calculation. Employees are not compensated for any specified union activities outside regularly scheduled work hours.

C. Other Union Leave.

1. Except as provided in this regulation, all other absence for union activities is by unpaid leave.

- a. An employee can only be released from regularly scheduled work on unpaid union leave with the appointing authority's prior approval as authorized in a collective bargaining agreement. An employee on unpaid union leave does not incur a break in service but does not accumulate continuous service hours.
 - b. In accordance with applicable regulations, collective bargaining agreements, and agency work rules and written policies, employees may use accrued annual leave, banked leave, or compensatory time to remain in pay status and accrue continuous service hours while absent on what would otherwise be qualifying unpaid union leave.
2. **Union reimbursement.** A union may, as provided in the Financial Management Guide, reimburse the state for all associated employer payroll costs through the DTMB Office of Financial Management's Payroll and Tax Reporting Division (PTRD) to allow a designated employee to be absent for what would otherwise be unpaid leave for qualifying union activities but remain in paid status based on union reimbursement.
3. **Reimbursement conditions.**
- a. The total state payroll cost attributable to an employee's time on union leave is the employee's base wage multiplied by the number of hours on unpaid union leave plus prorated shares of the biweekly employer-paid (1) group-insurance-benefit costs, (2) FICA and other payroll taxes, (3) normal retirement contributions, and (4) other retirement and personal-health-care-fund contributions.
 - b. The director shall report on reimbursements under this regulation annually to the commission.
 - c. Reimbursed time for union activities does not count as time worked in qualifying for overtime.
- D. Payroll Coding of Union Leaves.** To be absent from normal duties for union activities, an employee must use complete positive timekeeping as described below, including any comments required in § 4.D.4:
1. **Paid officer leave.** An employee using paid officer leave under § 4.A shall use the union paid leave (UNO1) code to enter time in payroll. For days when the officer performs neither state nor union duties, the officer shall use the code for holiday, annual leave, sick leave, or other appropriate leave.
 2. **Paid union leave.** An employee on paid leave for specified union activities under § 4.B.1 shall use the union paid leave (UNO1) code to enter time in payroll.
 3. **Other union leave.** An employee released from work for union activities who does not qualify for paid absence under §§ 4.A or 4.B.1 may use the union unpaid leave (UNUL), annual leave (ANLV), banked leave time used (BLTU), compensatory time used (CMPU), or buy-back union leave (BBL1) codes to enter time in payroll.

- a. **Union unpaid leave (UNUL).** An employee entering union unpaid leave for union activities will not incur a break in service but will not receive pay or leave or seniority accruals. Subsequent union reimbursement and leave crediting is not authorized. If an employee is excused from all state duties for an entire pay period for contractually authorized union activities and UNO1, BBL1, or personal leave are not or cannot be used for the period of absence, the employee shall code the entire pay period as 80 hours of UNUL.
- b. **Accrued leaves.** An employee entering annual leave, banked leave, or compensatory time for union activities will receive pay and leave and seniority accruals. Subsequent union reimbursement and leave crediting is not authorized.
- c. **Buy-back union leave (BBL1).** An employee entering buy-back union leave for union activities will receive pay and leave and seniority accruals, but the union must reimburse the state for each use of BBL1.
 - (1) **Union notice.** A union may authorize an employee to use the BBL1 code for qualifying union activities by notifying the state employer, appointing authority, and employee in writing. A union shall also notify the state employer, appointing authority, and employee in writing if a previously authorized employee is no longer authorized to use the BBL1 code. A union is responsible for reimbursement of all associated employer payroll costs related to authorized BBL1 use.
 - (2) **Time entry.** Authorized employees may use the BBL1 code when submitting time for qualifying union activities that do not qualify for paid union leave under §§ 4.B.1 or 2. If an employee is excused from all state duties for an entire pay period for contractually authorized union activities using BBL1, the employee shall code the entire pay period as 80 hours of BBL1. When approving biweekly time entries, appointing authorities shall review to identify any unauthorized users of the BBL1 code. Repeated unauthorized use of the code provides just cause to discipline an employee.
 - (3) **PTRD notice.** After each pay period, the DTMB Office of Financial Management's PTRD shall provide unions an itemized account of all employees who used BBL1 leave, the dates and amount used, and the amount due for full reimbursement.
 - (4) **Payment.** Within 28 days after the PTRD provides notice of BBL1 use to a union, the union shall provide payment to the PTRD for the associated payroll costs for the BBL1 hours used by its representatives. If payment is not timely made, the state personnel director may order an appointing authority to modify unreimbursed BBL1 hours by (1) allowing the employee to substitute accrued annual leave, banked leave, or compensatory time or (2) entering lost time and recovering the overpayment.

- (5) **Appeal.** A union may, within 28 days after the PTRD provides notice, file an appeal to MCSC-SPD@mi.gov contesting specific BBL1 hours charged. An appeal filed within 14 days after the notice may request a stay of required payment if unauthorized leave use for specific employees on specific dates is identified. After reviewing the complaint and conducting any necessary investigation, the state personnel director shall issue a written decision granting or denying the complaint. The decision shall include orders for any necessary refund to a union and adjustments to employees' time entry and pay. The director's decision is the final decision of the commission.
- (6) **Nonpayment.** The state personnel director may suspend the availability of the BBL1 code to employees or a union if unauthorized use persists or if a union refuses to timely reimburse the PTRD.
4. **Required comments.** When entering time in payroll using the UNO1, UNUL, or BBL1 codes for occasional absences, an employee shall include comments describing the basis for leave for each date taken (e.g., 2/1: 8-12, bargaining; 2/2: disciplinary conference, 1:30-2:30; 2/3: all day, travel and arbitration; etc.). Detailed information about the nature of the activity is not required, but the comment must (a) identify the time for which the leave is claimed and (b) include sufficient information to identify the type of qualifying activity claimed under § 4.B.1 for paid leave or under a contractual provision for other leave. An employee using the UNO1 code for paid officer leave under § 4.A, however, may enter a single comment indicating paid officer leave for the entire pay period, unless holiday or leave use is required under § 4.D.1. An employee excused from all state duties for an entire pay period for contractually authorized union activities using the BBL1 or UNUL code shall enter a single comment referencing the specific contractual provision and status authorizing the absence for the entire pay period (e.g., article 1.A bargaining leave; article 2.B vice-president leave; etc.).
5. **Audit.** Civil Service, the state employer, and appointing authorities may audit union-leave use. Unauthorized or inaccurate entry of time may result in discipline. Repeated approval of unauthorized union leave or the use of regular time by employees for union activities provides just cause to discipline a supervisor.

CONTACT

Questions on this regulation may be directed to the Office of the General Counsel, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; 517-284-0093; or MCSC-OGC@mi.gov.