

Michigan Civil Service Commission

Regulation 6.09

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

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 agreements permitting classified employees to engage in union activities on actual-duty time or to receive any compensation, benefit, or benefit accrual paid*

in whole or in part by the state for union activities, unless expressly included in a collective bargaining agreement approved by the civil service commission.

- (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 representative** means a person authorized by a collective bargaining agreement to represent members of a bargaining unit in union activities.

4. Standards

- A. Paid Officer Leave.** A recognized exclusive representative is granted 2,088 hours of union leave each fiscal year to allow a single classified employee to be absent fulltime from regular duties in the classified service to represent the exclusive representative and for union activities. The employee receives base pay, benefits, and seniority as if employed 80 hours per pay period.

1. Only one employee for each exclusive representative can use the union leave.

2. At least two weeks before each fiscal year starts, an exclusive representative shall inform the state personnel director and state employer which employee will take the leave.
3. During the leave, the employee is not considered an employee of the state for workers' compensation. For all other purposes, the employee is considered on administrative leave.

B. Paid Leave for Specified Union Activities.

1. **Administrative leave.** 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 leave and seniority accrual for the following:
 - a. Attendance at a disciplinary conference and one agency-level grievance conference as the union representative if employed by the same appointing authority as the grievant.
 - b. Reasonable travel to, attendance at, and up to 15 minutes of preparation time for a scheduled arbitration in a contractual grievance as the union representative if employed by the same appointing authority as the grievant.
 - c. Attendance at scheduled negotiations with the state employer for (1) the greater of four employees or the number of employer representatives designated by the state employer as attending the negotiations for primary bargaining and (2) the greater of two employees or the number of employer representatives designated by the state employer as attending the negotiations for secondary bargaining.
 - d. Reasonable travel to and attendance at impasse-panel proceedings for three employees per primary bargaining agreement or one employee per secondary bargaining agreement at impasse.
 - e. Attendance at a scheduled meeting of a committee as established at a frequency identified in an approved primary collective bargaining agreement for (1) the greater of two employees or the number of employer representatives designated by the state employer as attending per meeting per bargaining agreement for statewide committees or (2) the greater of one employee or the number of employer representatives designated by the appointing authority as attending per meeting per bargaining agreement for non-statewide committees.
2. **Limits.** Release on paid leave for specified union activities is subject to operational needs. Paid leave to investigate by a representative is not authorized. Overtime, travel, and expenses are not authorized. Time on paid administrative leave for specified union activities does not count as time worked in computing overtime. Employees are

not compensated for any specified union activities outside regularly scheduled work hours.

C. Unpaid Union Leave.

1. Except as provided in this regulation, all other leave for union activities is unpaid. This includes any unenumerated travel or preparation time for a qualifying activity and other unrelated activities for or on behalf of the union.
 - a. An employee may only be released from regularly scheduled work on unpaid leave with the appointing authority's prior approval or as a collective bargaining agreement authorizes and requires. An employee on unpaid 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, employees may use accrued annual leave to remain in pay status and accrue continuous service hours while absent on what would otherwise be qualifying unpaid leave.
2. **Union reimbursement.** An exclusive representative may, as provided in the Financial Management Guide, reimburse the state for all associated employer payroll costs to allow either:
 - a. Prospective reimbursement to allow a represented employee to be absent for union leave and remain in pay status and accrue continuous service hours while absent on what would otherwise be qualifying unpaid leave. [*Technical staff is investigating processes for these transactions under HRMN and SIGMA including potential individual or central leave banks. Additional information will be provided when available.*]
 - b. Adjustment of annual leave balances for an exclusively represented employees who used accrued leave credits for union business that would otherwise have been unpaid.
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 union leave plus prorated portions of the biweekly employer-paid (1) group-insurance-benefit charges, (2) FICA and other payroll taxes, (3) normal retirement contribution, and (4) other retirement and personal-health-care-fund contributions.
 - b. For an employee on an extended full-time absence for reimbursed union leave, the exclusive representative shall certify in writing to the appointing authority its commitment to fully reimburse the state for the term of the designated leave. For an employee on periodic reimbursed union leave, the exclusive representative shall notify the state employer in advance of employees authorized to be absent.

If an exclusive representative has not prospectively reimbursed for union leave under § 4.C.2.a, the employee must either use accrued annual leave and seek subsequent adjustment under § 4.C.2.b or enter unpaid union leave.

- c. The Payroll and Tax Reporting Division shall provide exclusive representatives an itemized account of the amount required to be reimbursed. The exclusive representative may appeal the itemized accounting to the state personnel director. The director's decision is the final decision of the commission.
- d. The director shall report on reimbursements under this regulation annually to the commission.
- e. Reimbursed time for union activities does not count as time worked in computing overtime.

D. Payroll Coding of Union Leaves.

1. **Paid Officer Leave.** An employee using paid officer leave under rule 6-3.9(c)(6) shall use the Administrative Leave code to enter time in payroll and include a comment indicating Paid Officer Leave.
2. **Paid Union Leave.** An employee on paid leave under § 4.B.1 shall use the Union Leave Paid code to enter time in payroll and include comments describing the basis for leave for each date taken (e.g., travel and attendance at arbitration on October 20; attendance at primary negotiations on October 30, etc.).
3. **Other Union Leave.** An employee released from work for union activities who does not qualify for paid absence under Rule 6-3.9(c)(6) or § 4.B.1 may either:
 - a. **Unpaid Union Leave.** Use the Union Leave Unpaid code to enter time in payroll and include comments describing the basis for leave for each date taken.
 - b. **Annual Leave Credits.** Use the Annual Leave Time code to enter time in payroll and include comments describing the basis for the leave for each date taken.
4. **Union-Reimbursed Leave.** If an exclusive representative reimburses the state for an employee's unpaid or annual leave under § 4.D.3, ... [*Technical staff is investigating processes for these transactions under HRMN and SIGMA. Additional information will be provided when available.*]
5. **Audit.** Union leaves' use is subject to audit by appointing authorities and Civil Service. Unauthorized or inaccurate entry of time may result in discipline.

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; by telephone at 517-284-0093; or to MCSC-OGC@mi.gov.