

<b>Name of Policy</b>	<b>Medical Assessment Policy</b>
<b>Description of Policy</b>	This policy details the provisions relating to medical assessment of a staff member which may lead to separation from the University due to medical reasons.
<b>Policy applies to</b>	<input checked="" type="checkbox"/> University-wide <input type="checkbox"/> Specific ( <i>outline location, campus, organisational unit etc.</i> ) <hr/> <input checked="" type="checkbox"/> Staff Only <input type="checkbox"/> Students Only <input type="checkbox"/> Staff and Students
<b>Policy Status</b>	<input type="checkbox"/> New Policy <input checked="" type="checkbox"/> Revision of Existing Policy

<b>Approval Authority</b>	Vice-Chancellor and President
<b>Governing Authority</b>	Chief Operating Officer
<b>Responsible Officer</b>	Director, Human Resources

<b>Approval Date</b>	9 December 2015
<b>Effective Date</b>	9 December 2015
<b>Date of Last Revision</b>	1 April 2019
<b>Effective Date of Last Revision</b>	1 April 2019
<b>Date of Policy Review*</b>	1 April 2022

\* Unless otherwise indicated, this policy will still apply beyond the review date.

<b>Related Policies, Procedures, Guidelines and Local Protocols</b>	Personal/Carers Leave Policy
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## 1. Background Information

This policy contains the procedures for arranging access to medical information about a staff member's health and capacity to perform the inherent requirements of their position. It also contains procedures that will generally be followed relating to a staff member's separation from the University due to medical reasons. There may be occasions where ACU will need to modify the procedures in this policy to meet the particular circumstances of individual staff.

This policy applies within the context of any obligations that the University has under legislation or regulation, including under the Fair Work Act and under the workers compensation jurisdictions.

## 2. Policy Statement

In accordance with the University's concern for a staff member's health and wellbeing and its general duty of care to provide a safe working environment, where the University may have a doubt about a staff member's health and wellbeing, it is appropriate for the University to seek information about a staff member's health.

The University has developed procedures which provide for a staff member to separate from employment with the University, including through medical retirement, when the staff member is unable to perform the inherent requirements of their position due to ill health and/or injury.

## 3. Policy Purpose

The purpose of this policy is to inform staff members of the processes that apply where:

- (i) The University may have doubt about a staff member's health and wellbeing; and/or
- (ii) There is a reasonable concern regarding a staff member's capacity to perform the inherent requirements of their position due to medical reasons; and/or
- (iii) The staff member has been absent for medical reasons for more than three (3) months, or the total absences of the staff member, within a twelve (12) month period, have been more than three (3) months and the staff member has exhausted their paid personal leave; and/or
- (iv) The staff member is unlikely to be able to resume their duties within a reasonable time frame because of medical reasons.

## 4. Application of Policy

This policy applies to continuing and fixed-term Staff of the University who are covered by *the Australian Catholic University Staff Enterprise Agreement 2017 - 2021*.

This policy does not apply to casual or sessional staff members of the University, or to continuing or fixed term staff members during their minimum period of employment.

The University will not terminate a staff member's employment where the staff member has been absent for medical reasons for 3 months or less in the past 12 months.

For the purposes of this policy, the term "medical practitioner" includes a specialist qualified to treat a particular medical and/or psychological condition(s).

## 5. Approvals

On the recommendation of the Director Human Resources, the delegated officer has the authority to require a staff member in their line of responsibility to attend a medical examination. The Director Human Resources may exercise this authority on behalf of the University.

The Vice-Chancellor and President has the authority to terminate a staff member's employment for medical reasons.

## 6. Procedures

### 6.1 Request for Information from Treating Medical Practitioner

Where the University may have a doubt about a staff member's health and wellbeing, the University may seek information about a staff member's health.

Doubt about a staff member's wellbeing may arise as a result of, for example:

- The nominated supervisor becoming aware that the staff member may have health issues,
- The staff member taking a large amount or regularity of sick leave,
- The staff member's colleagues raising concerns about the staff member's health and wellbeing to the staff member's nominated supervisor, and/or
- Students or another person advising the nominated supervisor that the staff member may have health issues and not be feeling well.

In such circumstances, the University, through Human Resources, will normally write to a staff member requesting the staff member's formal permission to contact their treating medical practitioner(s) in order to obtain information regarding the staff member's health and capacity to perform the inherent requirements of their position.

### 6.2 Medical and/or Psychological Assessment

- 6.2.1 Where there is reasonable concern regarding a staff member's capacity to perform the inherent requirements of their position, the University may require the staff member to undergo a medical and/or psychological assessment at the University's expense, by a medical practitioner chosen by the University. The University will provide the staff member with at least four (4) weeks' written notice that a medical examination is required. However, in exceptional circumstances, less than four (4) weeks' written notice of a medical examination may be provided by the University.

- 6.2.2** If the University determines that attending work is detrimental to the well-being of a staff member or to others with whom the staff member may work, the University may take action to prevent the staff member from further compromising their health or the health of others. For example, the University may require the staff member to remain away from the workplace until an assessment has been completed and the staff member has been determined to be fit to return to work.
- 6.2.3** The University may assist the staff member to access the University Employee Assistance Program, or temporary disability or permanent incapacity provisions of the staff member's superannuation fund.

### **6.3 Superannuation Benefits**

- 6.3.1** If, within the notice period of a medical and/or psychological assessment the staff member:
- elects to apply to their superannuation fund for ill-health retirement (or equivalent) or temporary disability benefits; and
  - provides the University with evidence of the application; and,
  - cooperates with the superannuation fund in the processing of the application,

the requirement for a medical examination will be deferred until the application has been determined. The University will normally take no further action until such time as the superannuation fund has reached a decision on the staff member's application.

In the event the superannuation fund determines that the staff member does have the capacity to perform the inherent requirements and duties of their position, in line with the University's duty of care obligations, the University will require the staff member to undergo the deferred medical examination in accordance with sub-clause 6.2.1.

- 6.3.2** A staff member who is granted an ill health retirement benefit (or equivalent) by their superannuation fund (eg a Permanent Incapacity Benefit from UniSuper) will be deemed to have separated from employment with the University by taking medical retirement at their initiative.

The staff member's date of medical retirement will take effect from either:

- (i) the date that the superannuation fund advises the University of its decision to grant ill health benefits to the staff member,

or,

- (ii) the date of effect advised to the University by the superannuation fund,

whichever advice is received first by the University.

- 6.3.3** If the staff member does not make an application to their superannuation fund in accordance with clause 6.3.1, the staff member must attend any medical examination arranged by the University under clause 6.2.1.

## **6.4 Medical/Psychological Report**

- 6.4.1** Where a medical and/or psychological assessment is conducted, the medical practitioner will be asked to provide a report to the University advising:

- whether the staff member is currently able to perform the inherent requirements of their position;
- if not, whether the staff member is likely to be able to resume work and perform those requirements within a reasonable time, being not less than twelve months;
- whether any further medical examination is required; and
- other pertinent information.

### **6.4.2 Requirement for Further Assessment**

If the medical practitioner undertaking an assessment requires additional information in order to complete the assessment, including but not limited to:

- (i) consideration of the staff member's medical records;
- (ii) discussion with the staff member's treating medical practitioner(s); and/or
- (iii) a separate examination/assessment by a second independent practitioner;

the staff member is required to cooperate with the request for additional information, and the University will meet the costs of any additional appointments.

The University will provide the staff member with reasonable notice that a further medical examination is required and the staff member will be required to attend the further medical examination(s).

## **6.5 Review of Medical Report**

A copy of the medical practitioner's report will be made available to the University and the University will supply a copy of the report to the staff member.

### **6.5.1 Establishment of Medical Practitioners Panel**

The University will also advise that the staff member may elect to make an application to refer the report to a panel of three (3) medical practitioners for an independent medical assessment.

If the staff member requests a review of the medical practitioner's report referred to in clause 6.4.1 by a panel of medical practitioners (**Panel**), the staff member must make an application to the University for a review within fourteen (14) days of the medical report being sent to the staff member. The application must include all relevant medical information available to the staff member at the time the medical and/or psychological assessment(s) was undertaken.

This Panel will not include any medical practitioner who has previously examined the staff member.

All reasonable efforts will be made to appoint a Panel within seven (7) days from the staff member's request being received by the University.

If the University receives a request for a Panel pursuant to clause 6.5.1, the Panel must:

- review all the medical information provided to it by the staff member and the medical report(s) provided by the University, and
- based on the documents referred to above, provide a report to the University advising it whether or not the majority of the Panel agrees with the determination of the medical practitioner(s) chosen by the University including in relation to whether the staff member has capacity to perform the inherent requirements of their position and will be able to resume work to perform those requirements within a period not less than twelve months from the date of the report of the medical practitioner.

Medical records shall be provided to the Director, Human Resources for appropriate confidential filing.

## **6.6 Termination of Employment**

### **6.6.1 Absences over 12 Months**

Notwithstanding any other provision of this Policy, where a staff member has been continually absent from employment on account of a medical and/or psychological condition, including but not limited to, one which has been the subject of an assessment under this Policy; and the absence has been for a period of not less than twelve (12) months, the University may terminate the staff member's employment by providing:

- for a continuing staff member, six (6) months' notice, or
- for a fixed-term staff member, notice equal to the period before the staff member's fixed-term contract of employment expires in accordance with its terms, whichever is the lesser amount.

### **6.6.2 Failure to Attend a Medical/Psychological Assessment**

The University may construe failure by a staff member to undergo a medical/psychological assessment as prima facie evidence that a medical

examination would have found the staff member unable to perform the inherent requirements of their position, and unlikely to be able to resume them within twelve (12) months.

In such a case, the University may provide:

- for a continuing staff member, six (6) months' notice, or
- for a fixed-term staff member, notice equal to the period before the staff member's fixed-term contract of employment expires in accordance with its terms, whichever is the lesser amount.

A failure by a staff member to undergo a medical/psychological assessment will not constitute misconduct.

### **6.6.3 Staff Member Unable to Resume Duties Within 12 Months**

If the medical and/or psychological assessment report under clause 6.4.1 and any determination by a Panel requested by the staff member finds that the staff member is unable to perform the inherent requirements of their position and is unlikely to be able to resume them within twelve (12) months, the University may terminate the staff member's employment. In this case, the University will provide:

- for a continuing staff member, six (6) months' notice, or
- for a fixed-term staff member, notice equal to the period before the staff member's fixed-term contract of employment expires in accordance with its terms, whichever is the lesser amount.

### **6.6.4 Staff Member May Be Offered Resignation**

Prior to taking action to terminate the employment of a staff member, the Vice-Chancellor and President may offer the staff member the opportunity to submit a resignation. If the staff member resigns, the Vice-Chancellor and President will accept the resignation and the staff member's employment with the University will terminate immediately on that basis.

### **6.6.5 Payment in Lieu of Notice**

If the University terminates a staff member's employment by providing notice in accordance with section 6.6.3 above, the University may, at its absolute discretion, at any time make a payment in lieu of notice equal to the total amount that the University would have been liable to pay to the staff member if the staff member's employment had continued until the end of the period of notice required under this Policy.

## 7 Revisions made to this Policy

Date	Major, Minor or Editorial	Description
31 October 2016	Major	Policy renamed (was Separation from ACU for Medical Reasons Policy) and updated to provide clarification including in relation to University obligations under section 352 and regulation 3.01, Fair Work Act and Regulations.
1 April 2019	Editorial	Updated to include reference to Australian Catholic University Staff Enterprise Agreement 2017 – 2021 and Service Central.

The University may make changes to this policy from time to time. In this regard, any staff member who wishes to make any comments about this policy may forward their suggestions to Human Resources.

## 8 Further Assistance

Any staff member who requires assistance in understanding this policy should first consult their nominated supervisor who is responsible for the implementation and operation of these arrangements in their work area. Should further information or advice be required staff should visit [Service Central](#).