

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: December 18, 2017

REGULATION TITLE:
Benefits and Hours of Work

REGULATION NO.:
UCF-3.040

SUMMARY OF REGULATION AMENDMENT: This regulation is amended to update language related to administrative leave and clarifies what forms of administrative leave may be unpaid.

AUTHORITY: BOG Regulation 1.001

NAME OF PERSONS WHO INITIATED PROPOSED REGULATION AMENDMENT:

Maureen Binder, Associate Vice President and Chief HR Officer

COMMENTS CONCERNING THE PROPOSED REGULATION AMENDMENT SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION AMENDMENT IS:

Regulations Administrator
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Millican Hall, Suite 360
Orlando, FL 32816-0015
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FULL TEXT OF THE PROPOSED REGULATION:

UCF-3.040 Benefits and Hours of Work.

- (1) Benefits made available to Faculty, A&P, and USPS include, but are not limited to: paid and unpaid leave, holidays, State and University-sponsored insurance programs, and retirement.
- (2) Benefits made available to Post Doctoral Associates (PDA) include health insurance, paid annual leave, and paid sick leave and should be prorated based on full-time equivalency and date of hire. The leave is tracked by the department.

(3) Benefits made available to residents and fellows in a program of graduate medical education in the College of Medicine are provided as described in College of Medicine Graduate Medical Education policies.

(4) In accordance with the Shared Responsibility for Employers provision of Patient Protection and Affordable Care Act (PPACA) of 2010 (26 U.S. Code § 4980H, et seq.), OPS employees who meet state eligibility criteria may be eligible for State-sponsored health insurance benefits.

(5) Under the Family Medical Leave Act (FMLA), OPS employees may be eligible for unpaid leave.

(6) Benefits and hours of work requirements shall be administered consistent with the following provisions.

(a) Each employee is expected to work the number of hours in the employee's established workweek unless on approved leave. Benefits shall be provided in proportion to the established scheduled hours and in compliance with federal and state health reform laws.

(b) The minimum workweek is 40 hours for full-time employees. Pay for designated University holidays (maximum of eight hours) and accrued leave are not considered overtime and are paid at the employee's regular pay rate. Approved leave may be adjusted to ensure an employee's workweek will not exceed 40 hours.

(7) Overtime Compensation for non-exempt employees. Non-exempt employees must be paid overtime at the rate of 1.5 times their regular rate of pay for all hours actually worked beyond 40 in the employer's designated work week (Friday through Thursday).

(a) There are limited exceptions to this rule as authorized by FLSA, including an exception relating to law enforcement personnel.

(b) When leave is used or paid holidays occur, those hours do not count toward the calculation of hours worked unless required by university procedure or collective bargaining agreement.

(c) Overtime compensation shall be paid no later than the end of the following pay period.

(8) Compensatory leave for non-exempt USPS employees.

- (a) Prior to November 18, 2016, overtime compensatory leave was provided in lieu of payment for overtime for nonexempt USPS employees at the rate of one and one half times the total hours worked beyond 40 in the workweek.
1. The maximum overtime compensatory leave an employee could accrue was 120 hours. When the employee's overtime compensatory leave balance reached 120 hours, the employee was not allowed to earn additional overtime compensatory leave until s/he reduced the balance by using the leave.
 2. Employees who have accrued overtime compensatory leave are required to use such leave before using annual leave.
 3. If the employee separates from employment or transfers to another department, the employee shall be paid for all unused overtime compensatory leave at the employee's regular rate of pay, by the sending department.
 4. Effective November 18, 2016, overtime compensatory leave will no longer be an option (exception: in-unit PBA). Employees who work overtime hours shall be paid in accordance with section (7) of this regulation.
 5. Employees who have overtime compensatory leave balances as of November 18, 2016, should coordinate with their supervisors to use the hours prior to July 1, 2018. Any employees with an overtime compensatory leave balance at that time, will receive a payout to zero out the balance.
- (b) Prior to November 18, 2016, special compensatory leave was provided to non-exempt USPS employees as follows:
1. Special compensatory leave was provided to compensate an employee for a university designated holiday when: the employee observed the holiday and worked 40 hours the week during which the holiday occurred; the holiday fell on the employee's regularly scheduled day off; or the employee was required to work the holiday.

2. Special compensatory leave was provided to compensate an employee for administrative leave for jury duty or court appearance provided in Section (16)(a) and (b) below when the employee worked 40 hours during the workweek in which the jury duty or court appearance occurred.
3. Special compensatory leave was provided to employees required to perform essential duties during an emergency closing for the hours worked during the closing.
4. There was no limit on the amount of Special Compensatory Leave an employee could accrue.
5. Employees who have accrued special compensatory leave will be required to use such leave before using annual leave.
6. The appropriate Vice President or Dean may elect to pay an employee for a part or all accrued special compensatory leave at any time. If the employee separates from employment or transfers to another department, the employee shall be paid for all unused special compensatory leave at the employee's regular rate of pay, by the sending department.
7. Effective November 18, 2016, special compensatory leave accruals will no longer be an option (exception: in-unit PBA). Employees who work in a pay period that generates the earning of special compensatory hours, shall be paid for those hours when paid for that pay period.
8. Employees who have special compensatory leave balances should coordinate with their supervisors to use the hours prior to July 1, 2018. Any employees with a special compensatory leave balance at that time will receive a payout to zero the balance.

(9) An employee shall be paid in proportion to their FTE status for all holidays designated for UCF employees, up to eight (8) hours per holiday.

(10) Leave shall be accrued while in pay status and shall be credited on the last day of that pay period or, in the case of separation, on the last day the employee performed services.

(11) During approved unpaid leave for parental, foster care, medical or military reasons, an employee may use accrued leave to continue the contributions to their benefits and other expenses. Under such circumstances, the employee must use a minimum of ten accrued leave hours per week until such leave is exhausted.

(12) Unless agreed otherwise, an employee shall be employed in the same or similar status upon completion of the approved leave period. While on paid leave, an employee may not be employed elsewhere unless approved by the University in writing. The outside activity and dual compensation regulations may apply in such circumstances.

(13) Compulsory leave provisions shall be consistent with the following.

- (a) Medical certification by an approved health care provider may be required.
- (b) Notice shall be provided to the employee identifying duration of the leave, the conditions for return to the position, and whether such leave shall count toward FMLA entitlements.
- (c) The employee may be allowed to use accrued leave during compulsory leave to continue the contributions to their benefits and other expenses.
- (d) Unless agreed otherwise, an employee shall be employed in the same or similar status upon completion of the approved leave period and upon receipt of medical certification.
- (e) Employees who fail to meet the conditions of the compulsory leave or who fail to obtain medical certification and are unable to perform duties may be offered part-time employment, placed on unpaid leave or have such leave extended, requested to resign, or be dismissed for inability to perform the duties of the position.

(14) Employees are provided with 12 workweeks of Family and Medical Leave within a 12-month period in compliance with the Family and Medical Leave Act (FMLA) of 1993 (29 USC s. 2601, et seq.) and implementing regulations (29 CFR Part 825). The 12-month period is defined as the fiscal year (July 1-June 30). All employees are eligible (including OPS and Post Doctoral Associate employees) who have worked at least 12 months (these

need not have been consecutive) and who have worked at least 1250 hours in the 12-months prior to the leave. Leave-accruing employees may use accrued leave when taking an FMLA leave.

(15) Employees shall be provided with up to six months unpaid parental leave (unless otherwise defined by collective bargaining agreement) when the employee becomes a biological or adoptive parent. Parental leave shall begin two weeks prior to the expected date of the child's arrival unless otherwise approved by the supervising physician or appropriate Dean or Director. The employee taking parental leave may use accrued leave, but accrued sick leave may only be used when the supervising physician restricts the employee from working.

(16) Employees are ~~granted~~provided paid administrative leave as follows. ~~—Paid~~aAdministrative leave shall not count as hours worked for purposes of calculating overtime ~~nor is it.~~—Administrative leave is not accrued.

- (a) Administrative leave for jury duty shall not exceed the number of hours in the employee's normal workday. If jury duty does not require absence for the entire workday, the employee shall return to work immediately upon release from the court. If the jury duty does not coincide with the regular work schedule, the employee shall be granted administrative leave based on the total hours served on jury duty and such leave shall be granted on the next scheduled work shift. Any jury pay shall be retained by the employee.
- (b) When job duties require court attendance, such as law enforcement officers under subpoena to appear in a proceeding because of their position with the University, this will be considered time worked. Administrative leave shall be provided to an employee summoned as a witness in a matter not involving personal interests, but shall not be provided to an employee who is a defendant in a criminal matter, where criminal matter means either an alleged misdemeanor or felony; who has received a summons to appear in traffic court (except as a witness); who is a party to a civil case, either as plaintiff or defendant; or who has any personal or familial interest in the proceedings.
- (c) Administrative leave for athletic competition in Olympic events shall be

provided in accordance with Section 110.118, F.S.

- (d) Administrative leave up to two days shall be provided to a non-exempt employee upon the death of an immediate family member (grandparents, parents, children, grandchildren and siblings of the employee, employee's spouse.)
- (e) Administrative leave shall be provided for official emergency closing of University facilities per UCF Regulation 3.035. ~~Only employees in active pay status and not on a scheduled leave of absence during the time of the emergency closing shall be provided administrative leave pursuant to this provision.~~
- (f) The President or designee may provide administrative leave for Florida Disaster Volunteers in accordance with Section 110.120, F.S.
- (g) The supervisor may provide administrative leave up to one hour for voting in public elections when it is not possible for the employee to vote outside of their normal work schedule. If early voting procedures are in effect, employees are not eligible for this benefit. The employee must request this leave in advance.
- ~~(h) The President or designee may place a faculty member under investigation on leave up to the length of the investigation. For A&P and USPS employees, the Chief Human Resources Officer (CHRO) or designee may place an A&P or USPS employee under investigation on leave up to the length of the investigation.~~
- ~~(i) The President or designee may place an employee on administrative leave between the notice of reduction in pay, suspension, or dismissal and the effective date of such action. For A&P and USPS employees, the CHRO or designee may place an employee on administrative leave between the notice of reduction in pay, suspension, or dismissal and the effective date of such action.~~
- ~~(j) The President or designee may place an employee on administrative leave when the employee's presence in the workplace may result in damage to property, or injury to the employee or others. For A&P and USPS~~

~~employees, the CHRO or designee may place an employee on administrative leave when the employee's presence in the workplace may result in damage to property, or injury to the employee or others.~~

~~(k) The President or designee and/or CHRO or designee may place an employee on administrative leave if deemed appropriate to unique or specific circumstances and/or in the best interest of the university.~~

(h) An employee who has been rated by the United States Department of Veterans Affairs or its predecessor to have incurred a military-service-connected disability and has been scheduled by the United States Department of Veterans Affairs to be reexamined or treated for the disability shall be granted administrative leave for such reexamination or treatment without loss of pay or benefits. However, such paid leave may not exceed 48 hours per calendar year. Employees should request the administrative leave in advance from their supervisor and provide a copy of the official documentation for the timekeeping records. If an employee fails to do so and later requests administrative leave, departments are permitted to approve adjustments to dates within the current calendar year.

(17) Other forms of administrative leave. Administrative leave under this section (17) may be paid or unpaid at the discretion of the appropriate University official. For faculty, administrative leave and pay status decisions under this section (17) will be made by the President or designee. For A&P and USPS, administrative leave and pay status decision under this section (17) will be made by the CHRO or designee. If paid, administrative leave under this section (17) shall not count as hours worked for purposes of calculating overtime and shall not accrue. An employee may be placed on administrative leave for the following:

(a) If it is determined that the employee's presence in the workplace may result in damage to property, or injury to the employee or others.

(b) When the employee is under investigation.

(c) Where deemed appropriate to unique or specific circumstances related to the employee and/or if determined to be in the best interest of the University.

(187) _ Military leave and reemployment rights shall be provided to Faculty, A&P

(including Executive Service) and USPS employees consistent with Federal and State laws. OPS employees, including Post Doctoral Associates, may request time off for military duty obligations. However OPS employees are not eligible for military pay supplements or extended leaves of absence.

(198)_ Workers' Compensation benefits for an injury compensable under the Florida Workers' Compensation Law shall be provided consistent with the following.

- (a) An employee shall remain in full pay status for a period up to a maximum of forty (40) hours without being required to use accrued leave. If, during that period, the employee receives Workers' Compensation benefits, then the employee shall reimburse the University the amount of the benefits. Such reimbursement shall not include payments for expenses related to medical, surgical, hospital, or nursing treatment or payments of disability losses.
- (b) An employee may elect to use accrued leave to supplement Workers' Compensation payments up to the employee's regular salary/rate of pay.
- (c) The period of paid or unpaid job-related disability leave shall be in accordance with Chapter 440, F.S.
- (d) An employee who was injured in the workplace may be returned to alternate duty consistent with established University policies or procedures.
- (e) If at the end of the leave period, an employee is unable to return from leave to work full-time and perform the duties of the position, the CHRO or designee may offer the employee a part-time appointment, place the employee on unpaid leave, extend the leave status, request the employee's resignation, or terminate the employee from employment.

(2019)_ In accordance with Fla. Stat. §121.35(3), all new Faculty and A&P employees are automatically enrolled in the Optional Retirement Program (ORP) unless such employee elects membership in the Florida Retirement System. Such election shall be made in writing and submitted to UCF Human Resources. Any employee who is eligible to participate in the Optional Retirement Program and who fails to execute a contract with one of the approved companies and submit a copy of said contract accompanied by a completed ORP-16 SUSORP Retirement Plan Choice Form within 90 days after the date

of eligibility shall be deemed to have elected membership in the Florida Retirement System, except as provided in s. 121.051(1)(a), which states that a faculty member in the College of Medicine may not participate in the Florida Retirement System. Faculty members in the College of Medicine shall participate in the Optional Retirement Program.

~~(2021)~~ _ Adjunct faculty, OPS non-student employees, Post Doctoral Associates, Medical Residents, and Medical Fellows are automatically enrolled in the 401(a) FICA Alternative Plan as a mandatory condition of employment. This is a mandatory retirement system and such employees do not contribute to or receive credits in the Social Security system.

Authority: BOG Regulation 1.001. History– New 5-16-12. Amended 2-8-16, 12-19-16, 7-20-17, _____-18.