

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: March 21, 2023

REGULATION TITLE:
Benefits and Hours of Work

REGULATION NO.:
UCF-3.040

SUMMARY OF REGULATION AMENDMENT:

The university proposes to amend the regulation to update the definition of the twelve-month period as it relates to FMLA leave, to clarify language regarding unpaid leave, and to update language on leaves for OPS employees.

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
4365 Andromeda Loop N.
Millican Hall, Suite 360
Orlando, FL 32816-0015
Phone: (407) 823-2482
e-mail: regulations@ucf.edu

FULL TEXT OF THE PROPOSED REGULATION AMENDMENT:

UCF-3.040 Benefits and Hours of Work.

- (1) Except as provided by any applicable collective bargaining agreement, this regulation applies to all employees based on their appointment type with the university.
- (2) Benefits made available to Faculty, A&P (including Executive Service), and USPS include, but are not limited to: paid and unpaid leave, holidays, State and University-sponsored insurance and retirement programs.
- (3) 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.
- (4) 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.

(5) Benefits made available to OPS may include university and State-sponsored insurance for those that meet the eligibility criteria. For example, 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.

(6) 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.
- (b) The minimum workweek is 40 hours for full-time employees. Approved leave may be adjusted to ensure an employee's workweek will not exceed 40 hours.
- (c) 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.

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

(8) An employee in a Faculty, USPS, or A&P (including Executive Service) appointment shall be paid in proportion to their FTE status for all holidays designated for UCF employees, up to eight (8) hours per holiday.

(9) Faculty, USPS, or A&P (including Executive Service) appointments shall accrue leave while in pay status and shall have such leave credited on the last day of that pay period or, in the case of separation, on the last day of employment.

(10) During approved unpaid leave ~~for parental, foster care, medical or military reasons~~, an employee in a leave-accruing position may use accrued leave to continue the contributions to their benefits and other payroll deductions. Under such circumstances (with the exception of USERRA military leave), the employee must use a minimum of ten accrued leave hours per week until such leave is exhausted.

(11) 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.

(12) Recovery leave initiated by the employer shall be consistent with the following provisions.

- (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 recovery 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 recovery leave or who may be unable to perform their essential duties or fail to obtain medical certification may be required to engage in the university's interactive accommodation process to determine if an accommodation can be made; or whether the employee will be placed on unpaid leave or have such leave extended, be requested to resign, or be dismissed for inability to perform the duties of the position. The employee may also choose to resign at any point during the recovery leave process.

(13) 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). Effective July 1, 2023, the 12-month period is defined as a rolling 12-month period measured backward from the date an employee first uses any FMLA leave. ~~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 1,250 hours in the 12-months prior to the leave. Leave-accruing employees may use accrued leave when taking an FMLA leave.

(14) Employees shall be provided with up to six months unpaid parental leave when the employee becomes a biological or adoptive parent. Parental leave shall begin no more than 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 only use accrued sick leave during the time the supervising physician restricts the employee from working.

(15) Employees are granted paid administrative leave as follows. Administrative leave shall not count as hours worked for purposes of calculating overtime nor is it accrued. Upon request, employees may be asked to provide documentation that supports the usage of administrative leave (e.g., jury summons).

- (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; has received a summons to appear in traffic court (except as a witness); is a party to a

civil case, either as plaintiff or defendant; or 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 three (3) days shall be provided to A&P (including Executive Service) and USPS employees in a leave-accruing appointment upon the death of an immediate family member. Immediate family member is defined as an employee's spouse (or persons bearing the same relationship to the employee's spouse), domestic partner, children (includes step, adopted, foster, and children for whom the employee has parent responsibilities), and their spouses, legal dependents, parents (includes biological, adoptive, foster, step, and *loco parentis*), siblings and their spouses, grandchildren, and grandparents.
- (e) Administrative leave shall be provided for official emergency closing of University facilities per UCF Regulation 3.035.
- (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) 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.

(16) Other forms of administrative leave. Administrative leave under this section (16) may be paid or unpaid at the discretion of the appropriate University official. For faculty, administrative leave and pay status decisions under this section (16) will be made by the President or designee. For A&P (including Executive Service) and USPS, administrative leave and pay status decision under this section (16) will be made by the CHRO or designee. If paid, administrative leave under this section (16) shall not count as hours worked for purposes of calculating overtime. 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.

(17) 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~~administrative leave.

(18) 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.

(19) Adjunct faculty, OPS non-student employees, Post-Doctoral Associates, Medical Residents, and Medical Fellows are automatically enrolled in the 401(a) FICA Replacement Plan as a mandatory condition of employment. This is a mandatory retirement plan 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, 1-18-18, 6-17-21, _____-23.