

**FLORIDA BOARD OF GOVERNORS
NOTICE OF PROPOSED REGULATION REPEAL**

DATE: June 19, 2008

REGULATION TITLE(S) AND NUMBER(S): 6C-5.920 Benefits and Hours of Work

SUMMARY: The Board of Governors has delegated authority to the board of trustees to develop university personnel programs. Therefore, the obsolete Board of Regents rule regarding benefits and hours of work needs to be repealed.

FULL TEXT OF THE REGULATION: The full text of the regulation proposed for repeal is posted on Board of Governor's Web site at www.flbog.org. In addition, the full text of the regulation is available upon request to the Office of the Chancellor, at (850) 245-0466.

AUTHORITY TO REPEAL REGULATION(S): Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006.

THE BOARD OF GOVERNORS' OFFICIAL INITIATING REPEAL OF THE REGULATION(S): Vikki Shirley, General Counsel.

COMMENTS REGARDING THE REPEAL OF THE REGULATION(S) SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation(s) on which you are commenting:

Vikki R. Shirley, General Counsel, Board of Governors, State University System, 325 W. Gaines Street, Suite 1614, Tallahassee, Florida 32399, (850) 245-0466 (phone), (850) 245-9685 (fax), or generalcounsel@flbog.org.

5.920 — Benefits and Hours of Work.

~~(1) — Benefits made available to Faculty, A&P, and USPS include paid and unpaid leave, holidays, State- and University-sponsored insurance programs, and retirement. Under the FMLA, OPS employees may be eligible for unpaid leave. Benefits and hours of work requirements shall be administered consistent with the following provisions.~~

~~(2) — Each employee is expected to work the number of hours in the employee's established workweek unless on approved leave. Benefits shall provide proportionate to the time on the payroll.~~

~~(3) — The minimum workweek is 40 hours for full-time employees. Holiday pay (maximum of eight hours) and paid 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.~~

~~(4) — Compensatory leave shall consist of the following types and such unused leave shall be transferred or paid as follows.~~

~~(a) — Overtime compensatory leave is 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.~~

~~1. — Overtime shall be paid no later than the end of the following pay period, unless accrued as overtime compensatory leave.~~

~~2. — Unused overtime compensatory leave shall be transferred unless the USPS employee's non-exempt designation changes to exempt and such leave shall be paid at the employee's regular rate of pay.~~

~~(b) — Regular compensatory leave shall be provided to a USPS exempt employee for work beyond 40 hours on an hour-for-hour basis. The University may transfer or pay for unused regular compensatory leave with the approval of the Chief Administrative Officer.~~

~~(c) — Special compensatory leave is provided to USPS as follows.~~

~~1. — Special compensatory leave is provided to compensate an employee for a State holiday when the employee observed the holiday and worked 40 hours the week during which the holiday occurred; the holiday falls on the employee's regularly scheduled day off; or the employee is required to work the holiday.~~

~~2. — Special compensatory leave is provided to compensate an employee for administrative leave for jury duty or court appearance provided in Section (14)(a) and (b) below when the employee worked 40 hours the week during which the jury duty or court appearance occurred.~~

~~3. — Special compensatory leave is provided to employees required to perform essential duties during an emergency closing for the hours worked during the closing.~~

~~4. — The Chief Administrative Officer may elect to pay an employee for a part or all accrued special compensatory leave at any time. If the employee separates or transfers to another University, the employee shall be paid for all unused special compensatory leave at the employee's regular rate of pay.~~

~~(5) — An employee shall be paid proportionate to the time in pay status for all holidays designated for State employees.~~

~~_____ (6) _____ 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 is on the payroll.~~

~~_____ (7) _____ During the approved unpaid leave for parental, foster care, medical or military reasons, an employee may use accrued leave to continue the contributions to State benefits and other expenses.~~

~~_____ (8) _____ 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 the requirements for outside activity and extra State compensation have been met.~~

~~_____ (9) _____ Sick leave accrual for full-time employees shall be as follows with proportionate accrual for less than full-time.~~

	Hours Accrued During Pay Period	
	Monthly	Biweekly
_____ Faculty _____	8.667	4
_____ A&P _____	8.667	4
_____ Ex. Service _____	10.833	5
_____ USPS _____	8.667	4

~~_____ (a) _____ Sick leave shall be accrued before use unless available through a sick leave pool. There is no maximum on the amount of sick leave that can be accrued. Sick leave accrued prior to October 1, 1973, shall be used prior to any sick leave accrued after that date.~~

~~_____ (b) _____ Sick leave is authorized for the following purposes:~~

~~_____ 1. _____ The employee's personal illness, injury, exposure to a contagious disease, a disability where the employee is unable to perform assigned duties, or appointments with health care providers.~~

~~_____ 2. _____ The illness, injury, appointments with health care providers, or death of a family member of the employee's family.~~

~~_____ (c) _____ Notice of absence due to illness, injury, disability, or exposure to a contagious disease, shall be given on the first day of absence.~~

~~_____ (d) _____ All unused sick leave accrued in another SUS or State plan for which payment has not been received shall transfer provided no more than 31 days have elapsed between employment or if reemployed by the SUS within 100 days.~~

~~_____ (e) _____ An individual who resigns from a governmental entity within Florida and is employed in the USPS within 31 calendar days, may transfer up to 480 hours of unused sick leave. Such leave shall be transferred as follows: 80 hours upon date of hire and 80 hours upon completion of each succeeding year. Accrued sick leave from a governmental entity for Faculty and A&P shall transfer as provided in reciprocal agreements with other governmental entities.~~

~~_____ (f) _____ Upon separation, an employee with 10 or more years of service shall be paid for one-eighth of all unused sick leave accrued prior to October 1, 1973, and for one-fourth of unused sick leave up to a total of 480 hours accrued after October 1, 1973, in accordance with Section 110.121, F.S. Upon reemployment by the SUS within 100 days or upon recall by the University within one year, all unpaid sick leave shall be restored and any sick leave paid at time of separation shall be restored upon repayment. An employee with less than 10 years of service shall not be paid for any~~

unused sick leave and such leave shall be forfeited unless reemployed by the SUS within 100 days or recalled by the University within one year.

(10) Annual leave for full-time employees shall be as follows with proportionate accrual for less than full-time. An academic year (39 weeks) employee, a Developmental Research School employee, and an employee appointed for less than 9 months shall not accrue annual leave. Hours off accrual for USPS is based on years of creditable service and such service shall be awarded as one month of service credit for each calendar month that the employee is on the salaried (non-OPS) payroll of a University or other State agency or during authorized unpaid leave.

	Hours Accrued During		Year End Maximums	Maximum Transferable	Maximum Payment
	Monthly	Biweekly			
Faculty	14.667	6.769	352	352	352
A&P	14.667	6.769	352	352	352
Ex. Service	20	9.195	480	480	480
USPS (Months of Service)					
0-6	8.667	4	240	240	0
7-60	8.667	4	240	240	240
61 to 120	10.833	5	240	240	240
Over 120	13	6	240	240	240

(a) Annual leave shall be accrued prior to use unless annual leave is advanced by the Chief Administrative Officer.

(b) Employees may accrue annual leave in excess of the year end maximum during a calendar year. Employees with accrued annual leave in excess of the year end maximum as of December 31, shall have any excess converted to post October 1, 1973 sick leave on an hour for hour basis on January 1 of each year. The employee may retain hours in excess of the year end maximum with the approval of the Chief Administrative Officer.

(c) The maximum annual leave, accrued in another SUS University or State plan for which payment has not been received, shall transfer provided no more than 31 days has elapsed between employment.

(d) An individual who resigns from a governmental entity within Florida and is employed in the USPS within 31 calendar days, may transfer up to 240 hours of accrued unused annual leave. Such leave shall be transferred as follows: 40 hours upon date of hire and 40 hours upon the completion of each succeeding year. Accrued annual leave from a governmental entity for Faculty and A&P shall transfer as provided in reciprocal agreements with other governmental entities.

(e) An employee who separates from employment shall be paid for all unused annual leave hours up to the year end maximum allowed for the pay plan. Upon reemployment by the SUS within 100 days or upon recall by the University within one year, all unpaid annual leave shall be restored and any annual leave paid at time of separation shall be restored upon repayment. Upon entering into the Deferred Retirement Optional Program (DROP), employees may elect to be paid up to the year end maximum of their unused annual leave.

(f) Upon transfer from an annual leave accruing position to a non leave-accruing position, the employee shall be paid for unused annual leave, unless the employee elects to retain all unused annual leave, for up to two years.

(11) 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 paid leave during compulsory leave to continue the contributions to State 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.~~

~~_____ (12) _____ 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 (PUBLIC Law 103-3) and the Final Regulations of the Family and Medical Leave Act of 1993 (29 CFR Part 825). The 12-month period is defined as the fiscal year (July 1-June 30). All employees are eligible including OPS 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. Faculty, A&P and USPS employees may use paid leave for an FMLA event and such shall be counted toward the entitlement.~~

~~_____ (13) _____ Employees shall be provided with up to six months unpaid parental leave during which time the employee may use paid leave 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 Chief Administrative Officer.~~

~~_____ (14) _____ Employees are provided paid administrative leave as follows and shall not cause the full-time employee to exceed 40 hours during the workweek. 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) _____ Administrative leave shall be provided to an employee summoned as a witness in a matter not involving personal interests. Administrative leave shall not be provided to an employee serving as an expert witness. Witness pay shall be retained by the employee.~~

~~_____ (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 USPS employee upon the death of a family member.~~

~~_____ (e) _____ Administrative leave shall be provided for official emergency closing of University facilities. Special Compensatory leave shall be provided to USPS employees required to perform essential services during the emergency closing. Only~~

~~employees scheduled to work during the time of the emergency closing shall be provided leave.~~

~~(f) The Chief Administrative Officer may provide administrative leave for Florida Disaster Volunteers in accordance with Section 110.120, F.S.~~

~~(g) The Chief Administrative Officer may grant up to two days of administrative leave for civil disorder or disaster for an employee who is a member of a volunteer emergency response team.~~

~~(h) The Chief Administrative Officer may provide administrative leave up to two hours for voting in public elections.~~

~~(i) The Chief Administrative officer may place an employee under investigation on leave up to the length of the investigation.~~

~~(j) The Chief Administrative Officer may place an employee on administrative leave between the notice of reduction in pay, suspension, or dismissal and the effective date of such action.~~

~~(k) The Chief Administrative Officer 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.~~

~~(15) Military leave and reemployment rights shall be provided to Faculty, A&P and USPS employees consistent with Federal and State laws.~~

~~(16) 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 credits. 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 paid leave to supplement Workers' Compensation payments up to the employee's regular salary.~~

~~(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 Chief Administrative Officer may offer the employee a part-time appointment, place the employee on unpaid leave or extend the leave status, request the employee's resignation, or terminate the employee from employment.~~

~~(17) All eligible Faculty and A&P employees are enrolled in the Optional Retirement Program (ORP) unless employees elect to participate in the Florida Retirement System. All other employees participate in the Florida Retirement System, except those who remain in the State and County Officers and Employees Retirement System or the Teachers Retirement System.~~

~~Authority: Section 7(d), Art. IX, Fla. Const., History—New 1-24-96, 8-17-99.~~