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LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM

TO: Dr. Monty Sullivan
LCTCS President

THROUGH: Joseph F. Marin *JFM*
Chief Operations Officer

FROM: Gena Doucet
Chief Human Resources and Development Officer

SUBJECT: Review and Advisement: Revisions to the Compensatory Leave Section of Policy # 6.003, Leave Record Establishment and Regulations for all Unclassified, Non-Civil Service Employees

DATE: October 19, 2018

APPROVED

slk 11/14/18
LCTCS BOARD OF SUPERVISORS

FOR REVIEW AND ADVISEMENT

Recommendation: Staff recommends that the Board accept for review and advisement the attached revisions to the compensatory leave section of Policy #6.003, Leave Record Establishment and Regulations for all Unclassified, Non-Civil Service Employees.

Background: In March 2018, there was an internal audit report of the compensatory leave section of Policy #6.003, Leave Record Establishment and Regulations for all Unclassified, Non-Civil Service Employees and LCTCS college's compliance with the policy. The audit resulted in three findings and recommendations of changes to the compensatory leave section.

After careful review by college and board office human resources staff, it was determined that it would be best to re-write the entire compensatory leave section of the policy, as some of the policy was potentially vague and unduly repetitive. The new section includes specific language that provides a clear process for (1) written prior approvals of compensatory leave; (2) establishing eligibility for compensatory leave that took into account the Fair Labor Standards Act requirements for exempt and non-exempt positions; (3) compensatory leave accruals and maximums; (4) compensatory leave while traveling; and (5) the use of accumulated compensatory leave.

History of Prior Actions: This policy was last revised in December of 2016.

Benefits to System: The proposed changes will clarify the approval, eligibility, accrual, and use of compensatory leave. Proper management of compensatory leave reduces accrued liability for the entire system.

Monty Sullivan
Approved for Distribution to the Board
Dr. Monty Sullivan, President

11-14-18
Date

LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM
Policy # 6.003

Title: LEAVE RECORD ESTABLISHMENT AND REGULATIONS FOR ALL UNCLASSIFIED, NON-CIVIL SERVICE EMPLOYEES

Authority: Board Action	Original Adoption:	5/10/00
	Effective Date of Current Policy:	<u>01/01/2019</u>
	8/15/16	
	Last Revision Approved:	<u>01/01/2019</u>
	12/14/16	

A. Introduction

The rules and policies set forth below shall be applicable to all unclassified, non-civil service employees under the jurisdiction of the Board of Supervisors. It is the policy of the Board of Supervisors that unclassified employees shall enjoy benefits comparable to other classes of state employees, and these rules and policies are promulgated under that concept. Classified employees are covered by Civil Service rules and regulations for the State of Louisiana.

Employees shall not absent themselves from their duties without proper authorization. It is the responsibility of the department head or his/her designee to receive and review requests for all leave and approve or disapprove such requests in accordance with LCTCS policy, and to ascertain that the department staff keeps accurate leave records on all departmental employees and reports information on leave accrued, leave taken and leave denied. No employee shall approve or maintain records for his/her own leave.

B. Definitions:

1. Administrative Leave is paid or unpaid leave enforced upon an employee for a specific or indefinite period of time when such action would be in the best interest of the system.
2. Advanced Degree Leave is leave with either no pay or partial pay granted full-time non-faculty employees for study which will culminate in the receipt of an advanced degree, the object of which is to enable the employee to increase their professional efficiency and usefulness to the LCTCS.
3. Annual Leave is leave with pay granted to unclassified 12-month employees on a regular tour of duty for the purpose of rehabilitation, restoration, maintenance of work efficiency, Family and Medical Leave (FMLA) or attention to other personal concerns.
4. Appointing Authority means the System President, the Chancellor of each LCTCS community college, technical community college and the Senior Vice President of Career and Technical Education for the Louisiana Technical College, or as delegated by the System President, and as authorized by statute or lawfully delegated authority to make appointments to positions in the

- Louisiana Community & Technical College System. Note: In any instance where the term Appointing Authority is used, this will also mean the appointing authority's designee.
5. Classified Employee – all employees in positions covered by the provisions of the Civil Service System of the State of Louisiana.
 - ~~6. Compensatory Leave is leave granted to and used by unclassified non-faculty employees for work and duties performed in excess of the normal 40-hour workweek or 80-hour pay period as approved by the Appointing Authority.~~
 6. Compensatory Leave is leave earned and granted in lieu of paying an eligible unclassified non-faculty employee for hours worked over the 40-hour workweek/80-hour pay periods with prior written approval by the Appointing Authority.
 7. Educational Leave is paid leave that may be granted to and used by unclassified non-civil service employees for the purpose of attending an approved job-related course of study.
 8. Faculty Leave is leave granted only to faculty members employed on the 9-month and 10-month (academic year) basis in lieu of annual leave and is comprised of the days between terms and at holiday periods when students are not in classes. This special form of leave is not an accrued leave. It is granted as appropriate and shall be taken as it is granted. Faculty leave ensures that the regular earnings of eligible faculty members are not reduced during the prescribed periods, i.e. they do not lose pay because classes are not in session.
 9. Family and Medical Leave (FMLA – the Family and Medical Leave Act of 1993 as amended) is unpaid leave granted to eligible employees that enables them to take up to a maximum of twelve work weeks for qualifying events, or up to 26 weeks in a single 12-month period for military caregiver purposes. It provides for continuation of health care premiums when the employee has and wishes to continue health care coverage during the period of approved family and medical leave. LCTCS policy requires concurrent use of paid leave as appropriate, based on the eligibility for use of such leave.
 10. FLSA – Fair Labor Standards Act is a federal labor law of general and nationwide application, including Overtime, Minimum Wages, Child Labor Protections and the Equal Pay Act.
 11. Immediate Family Member (Funeral Leave) is an employee's spouse, child, step-child, sister, step-sister, brother, step-brother, parent, step-parent, mother-in-law, father-in-law, grandparent, or grandchild.
 12. Job-related course of study is a course in which the course content is of direct and significant assistance to the employee in carrying out present duties and responsibilities or contributing to his or her professional development, as approved by the supervisor. This also includes courses that are part of a job-related degree/certificate program.
 13. Leave without pay is leave, for which the employee receives no pay that is granted and taken as it is granted.
 14. Leave of absence without pay is a period of leave or time off from work granted by the appointing authority, under stipulated conditions, for which the employee receives no pay.
 15. LCTCS – The system office and colleges that make up the Louisiana Community and Technical College System.
 16. Military Leave means leave granted for continuous and uninterrupted military duty on a voluntary or involuntary basis to include active duty, active duty for training, full-time National Guard duty, annual training, and inactive duty for training (weekend drills).
 17. Regular Tour of Duty is an established schedule of work hours and days recurring regularly on a weekly, bi-weekly, or monthly basis for full-time or part-time unclassified employees.
 18. Sabbatical Leave is leave granted to full-time faculty for the purpose of professional or cultural improvement, study, and research, the object of which is to enable the faculty to increase their professional efficiency and usefulness to the LCTCS.

11. Reemployment After Retirement

Unused, unpaid sick leave is not re-credited to individuals reemployed after retirement from state service.

G. Compensatory Leave for Non-Faculty Unclassified Employees

~~Non-faculty unclassified employees are hired on an annual basis and are not compensated with cash payment for extra work beyond the normal 40-hour workweek/ 80-hour pay period. The appointing authority may grant payment for compensatory leave to a non-faculty unclassified employee for extraordinary circumstances. Written justification for such payment, signed by the appointing authority in advance shall be filed with the time record covering the period for which the payment is granted.~~

~~No more than 240 hours of unused compensatory leave which has been granted shall be carried forward into any fiscal year. An unclassified employee shall not be paid for any hours that are not eligible to be carried forward into any fiscal year.~~

1. ~~Accrual of Compensatory Leave~~

~~a. The compensatory leave policy for non-faculty unclassified employees of the Louisiana Community and Technical College System office and of the System institutions is as follows:~~

- ~~1) An appointing authority may require an employee to work overtime on a holiday or at a time that the employee is not regularly required to be on duty. Compensatory leave may be granted for hours worked outside the regularly assigned 40-hour work week/ 80-hour pay period, or when, due to holidays observed or leave taken, the employee is deemed to have worked in excess of 40 hours/80-hour pay period. Prior approval shall be obtained from the supervisor in order to be granted compensatory leave for overtime. The amount of such leave shall be equal to the amount of overtime hours the employee is required to work (on an hour for hour basis).~~
- ~~2) Compensatory leave shall not be granted to any employee at the System Office at or above the level of Director, at the Community Colleges at or above the level of Dean and at a Louisiana Technical College at or above the level of a Director, Campus Dean, or any such equivalent positions. Community College Athletic Directors and Coaches are not to be granted compensatory leave. Exceptions may be made to permit the above referenced employees to be exempted from having to take leave when the college is officially closed.~~
- ~~3) In all cases, any employee who is entitled to accrue compensatory leave under the Fair Labor Standards Act shall accrue compensatory leave in accordance with that act.~~
- ~~4) The appointing authority may grant compensatory leave to an unclassified employee that would not otherwise be eligible for compensatory leave for extraordinary circumstances. Written justification for such leave, signed by the appointing authority shall be filed with the time record covering the period for which the leave is granted.~~

- ~~5) When an employee's work assignment requires travel to/from the assigned work site, this places the employee on official travel. If such travel is during a regular workday or holiday, an unclassified employee may be granted a *maximum* of five (5) hours of compensatory leave for hours worked after 4:30 p.m. (or the official workday in effect). When an employee's work assignment requires travel to/from the assigned work site and this official travel is on a weekend, an unclassified employee may be granted a *maximum* of eight (8) hours of compensatory leave per day. The employee's time spent for a typical commute from home to office should not be included when requesting/granting compensatory leave for travel to/from a work assignment destination.~~
- ~~6) For purposes of computing compensatory leave hours, travel will be considered ceased upon arrival at the destination (place of lodging/work site) and considered begun when the employee leaves the destination.~~
- ~~7) Time spent in session for a conference/convention is to be reported as working time; however, no compensatory time will be accrued for travel to/from conferences and conventions.~~
- ~~8) When an employee is on official travel and chooses a different mode of travel than that offered by LCTCS (ex: chooses to drive rather than fly), any additional hours of travel time incurred as a result of the employee's personal decision to choose a different mode of travel shall not be considered hours worked and will not be eligible for compensatory leave.~~

~~2. Use of Compensatory Leave~~

~~Compensatory leave shall be promptly granted to the employee and may be used with the approval of the immediate supervisor.~~

~~3. Requirements concerning the use of compensatory leave include the following:~~

- ~~a. An appointing authority may require an unclassified employee to use their accrued compensatory leave at any time.~~
- ~~b. Compensatory leave is to be taken in minimum increments of one half hour.~~
- ~~c. No employee shall be charged for annual leave until all accumulated compensatory leave has first been deducted. Compensatory leave *may* be used in place of sick leave.~~
- ~~d. Compensatory leave should not be confused with a flexible time policy. Employees cannot arbitrarily determine their own work schedules. In addition, work undertaken while at home does not constitute the granting of compensatory leave, unless there is specific written advance approval by the employee's appointing authority for appropriate purposes. Written justification for such leave, signed by the appointing authority shall be filed with the time record covering the period for which the leave is granted.~~
- ~~e. The manner in which the compensatory leave policy is administered shall be at the discretion of each appointing authority and appropriate documentation/attendance records shall be maintained. The appointing authority shall be responsible for the administration of this policy.~~

~~4. FMLA Compensatory Leave~~

- ~~a. Employees subject to FMLA are *required* to use paid compensatory leave prior to use of paid annual leave but *may* elect to use paid compensatory leave for any approved purpose at the same time as unpaid FMLA leave.~~
- ~~b. Employees are required to provide 30 days notice for FMLA compensatory leave unless it is medically impossible or impractical to provide such notice.~~
- ~~c. Employees are required to provide physician certification for all such FMLA leave for which paid compensatory leave is also elected to be taken, according to the condition for which the FMLA leave is approved (see FMLA sick and FMLA annual leave). Such certification shall be provided within 15 calendar days of notice of use of the leave.~~

~~5. Application Required When Using Compensatory Leave~~

- ~~a. An unclassified employee shall apply for use of compensatory leave.~~
- ~~b. When practical such application shall be made in advance to the supervisor.~~

~~6. Advance of Leave~~

- ~~a. No advance of compensatory leave will be granted. Employees who have exhausted their compensatory leave but who accrue and have annual and/or sick leave will be required to make use of their annual and/or sick leave to continue their leave status or they may request leave without pay upon exhaustion of other paid leave balances. The granting of leave without pay is not automatic, and is at the discretion of the employer. Employees who fail or refuse to request leave without pay shall administratively be placed on unauthorized leave without pay and may be subject to disciplinary action, including termination.~~
- ~~b. Compensatory leave cannot be shared or borrowed from the leave balances of other employees~~

~~7. Payment, Transfer, Continuance or Disbursement of Compensatory Leave Balances~~

- ~~a. An unclassified employee, who is exempt from the FLSA, ***shall not*** be paid for unused compensatory leave upon separation.~~
- ~~b. In the event that an employee transfers without a break in state service, compensatory leave ***may*** be credited to the employee at the discretion of the employing agency's appointing authority. Compensatory leave not assumed by the employing agency at transfer shall be terminated, when the employee separates from the LCTCS, and is not eligible for reinstatement upon re-employment with the LCTCS.~~

~~8. Payment of Compensatory Leave Upon Retirement from Active Duty, Entry into Deferred Retirement Option Plan (DROP) or Death~~

- ~~a. Employees shall not be paid for unused compensatory leave upon retirement from active duty, entry into Deferred Retirement Option Plan (DROP) or death.~~

9.— Reemployment After Retirement

- a.— Unused, unpaid compensatory leave is not re-credited to individuals reemployed after retirement from state service.

Compensatory leave is leave earned in lieu of paying an eligible unclassified employee for overtime hours worked. Compensatory leave earnings are based upon a determination of the employee's Fair Labor Standards Act (FLSA) status of exempt or non-exempt. See *Accrual Section for specifics.*

Exempt employees are hired to work 40-hour workweeks/80-hour pay periods for all 12 months of a year and under normal circumstances are not compensated for any additional time worked. Although not always required, but in the spirit of providing a benefit to those eligible unclassified employees that work more than the normal 40-hour week compensatory leave is offered.

Approval for Compensatory Leave

All compensatory leave for eligible unclassified employees must have written prior approval from the Appointing Authority specifying the reason for the approval. The approval document shall be filed in the appropriate campus office.

Compensatory leave is not to be used to extend an employee's workday or in lieu of a lunch break. The Appointing Authority may provide for exceptions through prior written approvals for circumstances involving special projects or circumstances that require additional work hours beyond the regular 40-hour work week.

If there is a work-from-home policy or extenuating circumstances requires an unclassified employee to work from home the employee may earn compensatory leave if given specific written advance approval by the Appointing Authority. The approval document shall be filed in the campus human resource office.

Time worked without prior written authorization shall not be approved for compensatory leave.

Eligibility for Compensatory Leave

Unclassified employees exempt and non-exempt may be eligible to earn compensatory leave:

- Non-exempt unclassified employees must have prior written authorization to earn compensatory time.
- Exempt unclassified employees must have prior written Appointing Authority approval. Per FLSA, it should be noted that exempt employees are not entitled to earn compensatory leave. However, an Appointing Authority may allow certain exempt employees to earn compensatory leave with prior written approval for circumstances involving special projects or circumstances that require additional work hours beyond the regular 40-hour work week.
- High level exempt employees, as defined by the Appointing Authority (see paragraph below), who are ineligible for compensatory leave will not be charged annual leave when the college is officially closed.

To prevent confusion regarding eligibility, the Appointing Authority shall document which exempt positions may not be eligible for compensatory leave. Such documentation should be noted in the position description and kept on file with the human resource office.

Those individuals employed with a status of faculty, intermittent, seasonal, student, or temporary are ineligible to earn compensatory leave and are not paid when the college is officially closed, unless hours are worked.

Accrual of Compensatory Leave

Compensatory leave earnings are based upon a determination of the employee's Fair Labor Standards Act (FLSA) status of exempt or non-exempt.

- When a holiday or paid leave is used towards the 40-hour work week, the non-exempt employee shall earn straight time of compensatory leave for hours worked over the 40-hours;
- When a non-exempt employee actually works all 40-hours in a workweek, the non-exempt employee shall earn time and one-half hours of compensatory leave for the hours **worked** over 40 in a workweek;

No more than **240 hours** of unused compensatory leave can be carried forward into any fiscal year for non-exempt employees. In accordance with the FLSA, non-exempt employees working in a public safety activity, an emergency response activity, or a seasonal activity may accrue no more than **480 hours** of compensatory leave for hours worked.

Exempt employees shall earn straight-time for hours worked over 40 in a workweek.

No more than **360 hours** of unused compensatory leave can be carried forward from one fiscal year to the next for exempt employees. In accordance with FLSA, exempt employees engaged in law enforcement and health care activities may accrue no more than **540 hours** of compensatory leave for hours worked.

Compensatory leave shall be earned at a minimum of 15-minute increments.

Compensatory leave shall be claimed by and credited to the eligible unclassified employee during the pay period the overtime is worked and, upon approval, may be used by the employee at a future date.

Accrual of Compensatory Leave and Travel

When an unclassified employee's work assignment requires travel to/from an assigned work site that is different than their normal work site the unclassified employee is considered to be on official travel.

- During a regular workday or holiday, the unclassified employee may be granted a *maximum* of five (5) hours of compensatory leave for hours worked after 4:30 p.m. (or the official workday in effect).
- When the travel is on a weekend, an unclassified employee may be granted a *maximum* of eight (8) hours of compensatory leave per day.

The employee's time spent for a typical commute from home to the office should not be included when granting compensatory leave for travel to/from a work assignment destination.

For purposes of computing compensatory leave hours, travel will be considered "ceased" upon arrival at the destination (place of lodging/work site) and considered "begun" when the employee leaves the destination.

When an employee is on official travel and chooses a different mode of travel than that offered (ex: chooses to drive rather than fly), any additional hours of travel time incurred as a result of the employee's personal decision shall not be considered hours worked and will not be eligible for compensatory leave.

Time spent in session for a conference/convention is to be reported as working time. Compensatory time will be accrued for travel to/from conferences and conventions only when the travel is mandated by the college.

Use of Compensatory Leave

Eligible employees requesting the use of compensatory leave shall be permitted by their immediate supervisor to use such leave within a reasonable period after making the request, if the use of compensatory leave does not unduly disrupt the operations of the organization.

- An Appointing Authority may require an eligible unclassified employee to use their accrued compensatory leave at any time, especially if they have reached their maximum accrual.
- Compensatory leave is to be taken and will be reduced in minimum increments of 30 minutes.
- When annual leave is requested and approved, compensatory leave balances will be exhausted before any reduction in the annual leave in order to minimize the institution's liability. This reduction will be an automatic process by the payroll system.
- Compensatory leave *may* be used in place of sick leave.

- The manner in which compensatory use is administered shall be at the discretion of each Appointing Authority and appropriate documentation shall be maintained.

Compensatory leave should not be confused with flexible time. Employees cannot arbitrarily determine their own work schedules.

Employees approved for a leave under the FMLA are required to use paid compensatory leave prior to the use of paid annual leave. Please refer to Policy #6.041, Family and Medical Leave for All Employee for more details.

H. Civil, Emergency, Special and Other Leave:

An employee shall be given time off without loss of pay, annual, or sick leave for the purposes listed in this section. The following are recognized by the Board of Supervisors as appropriate reasons:

1. For performing state or federal grand or petit jury duty;
2. When summoned to appear as a witness before a court, grand jury, or other public body or commission on a work-related matter or in an official capacity; employees may request annual leave, compensatory leave or leave without pay if no annual or compensatory leave is available to serve as a witness for personal/non-work related reasons;
3. For performing emergency civilian duty in relation to national defense;
4. Employees who are *unable* to vote prior to or after their workday, upon request of the employee and approval of the supervisor, *may be allowed* time off with pay for voting in accordance with the following schedule:

Voting Residence Within:

- 0-30 mile radius of the campus: 2 hours leave
- 31-60 mile radius of the campus: 4 hours leave
- 61 or more mile radius of the campus: 1 day leave

The supervisor, in accordance with the above schedule, will have the discretion of determining the amount of leave and when the time off will be given during the workday. Nothing in this policy prevents the supervisor from inquiring as to the reasons why the employee cannot vote prior to or after the workday.

NOTE: Most of the leave items listed below do not apply to hourly (i.e., part time or non-leave earning) employees.

5. Taking a required examination pertinent to the employee's state employment before a state or national licensing board;
6. When the appointing authority determines that employees are prevented from performing their duties by an act of God;
7. When the appointing authority shall determine that local conditions or celebrations make it impracticable for employees to work in the locality.
8. The appointing authority *may* formally declare early closure at times for reasons that fall outside of an act of God but are deemed appropriate for business operation purposes. In these instances of early closure *those at work at the time of the declared early closure* are eligible to receive