

**STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES**

KEVIN MULLALLY, PhD,

Petitioner,

vs.

Final Order No.: 20-0065

DOAH Case No.: 20-1292

**DEPARTMENT OF MANAGEMENT SERVICES,
DIVISION OF RETIREMENT,**

Respondent.

_____ /

FINAL ORDER

This matter comes before the Department of Management Services, Division of Retirement (“Department”), for entry of a Final Order in accordance with section 120.569(1), Florida Statutes.

On August 3, 2020, Lynne A. Quimby-Pennock, Administrative Law Judge (“ALJ”), issued a Recommended Order recommending the Department enter a Final Order allowing Dr. Mullally to enroll in the State University System Optional Retirement Program (“SUSORP”) as of August 8, 2019. The Petitioner and the Respondent did not file any exceptions to the Recommended Order with the Department. After a thorough review of the record and being fully advised in the premises, the Department hereby makes the following findings of fact and conclusions of law:

Standard of Review

As provided in Section 120.57(1)(l), Florida Statutes:

The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusion of law or interpretation of administrative rule, the agency must state with particularity its reasons for rejecting or modifying such conclusion of law or interpretation of administrative rule and must make a finding that its substituted conclusion of law

or interpretation of administrative rule is as or more reasonable than that which was rejected or modified. Rejection or modification of conclusions of law may not form the basis for rejection or modification of findings of fact. The agency may not reject or modify the findings of fact unless the agency first determines from a review of the entire record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record and without stating with particularity its reasons therefor in the order, by citing to the record in justifying the action.

FINDINGS OF FACTS

Following a thorough review of the record, the Findings of Facts set forth in the Recommended Order are hereby adopted in their entirety and are incorporated herein by reference, except as modified as follows:

Findings of Fact, Paragraph 2

The findings of fact contained in paragraph 2 are modified only to correct the statutory references. Section 121.025, Florida Statutes, should be cited instead of section 121.125, Florida Statutes. Section 121.35, Florida Statutes, should be cited instead of section 121.035, Florida Statutes.

CONCLUSIONS OF LAW

Following a thorough review of the record and applicable laws, the Conclusions of Law set forth in the Recommended Order are adopted in their entirety and are incorporated herein by reference.

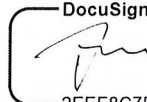
It is hereby **ORDERED AND ADJUDGED:**

1. The Recommended Order issued in this case is adopted and incorporated herein by reference, except as modified above;

2. The Department of Management Services, Division of Retirement, shall allow Dr. Kevin Mullally to enroll in SUSORP as of August 8, 2019;
3. The Final Order shall become effective on the date of filing with the Department's Agency Clerk.

DONE and **ORDERED** on this 11/9/2020 | 2:31 PM EST

DocuSigned by:



2EEF8C7BA0D34CA...

JONATHAN R. SATTER

Agency Secretary
Department of Management Services
4050 Esplanade Way
Tallahassee, Florida 32399

Copies Furnished:

Kevin Andrew Mullally
1821 Carollee Lane
Winter Park, Florida 32789
Kevin.Mullally@ucf.edu
Kevinamullally@gmail.com

Thomas E. Wright, Esq.
Office of the General Counsel
Department of Management Services
4050 Esplanade Way, Suite 160
Tallahassee, Florida 32399
Tommy.Wright@dms.fl.gov

Gayla Grant, Esq.
Office of the General Counsel
Department of Management Services
4050 Esplanade Way, Suite 160
Tallahassee, Florida 32399
Gayla.Grant@dms.fl.gov

NOTICE OF RIGHT TO APPEAL

Unless expressly waived by a party such as in a stipulation or in other similar forms of settlement, any party substantially affected by this Final Order may seek judicial review by filing an original notice of appeal with the agency clerk of the Department of Management Services, and a copy, accompanied by the filing fees prescribed by law, with the clerk of the appropriate District Court of Appeal. The notice of appeal must be filed within thirty (30) days of rendition of this order, in accordance with Rule 9.110, Florida Rules of Appellate Procedure, and Section 120.68, Florida Statutes.

Certificate of Clerk:

Filed in the Office of the Agency
Clerk of the Department of Management
Services on this 11/9/2020 | 2:49 PM EST

DocuSigned by:

4FF6BE303958454...

Kristy Peltier
Agency Clerk