

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**D.C. Department of Human Resources**

**District Personnel Manual Issuance System**

**E-DPM Bulletin No. 4-43 & 18-1**

This E-DPM bulletin may be accessed electronically at [www.dchr.dc.gov](http://www.dchr.dc.gov), by clicking on the "District Personnel Manual" link; and the "Issuances" link for Chapter(s): **4 & 18**

**SUBJECT:** Granting of a Variation to Subsections 1813.5, 1813.6 (b), 1813.7 (a) through (c), and 1813.10 of Chapter 18, Employee Conduct, of Subtitle B of Title 6 of the District of Columbia Municipal Regulations

**Date:** April 10, 2013

**1. General Information on Variations**

Subsection 400.1 of Chapter 4, Organization for Personnel Management, of Subtitle B of Title 6 of the District of Columbia Municipal Regulations (DCMR), authorizes the Director of the D.C. Department of Human Resources (DCHR) to grant a variation from the strict letter of the regulations if such variation is within the spirit of the regulations and the efficiency of the District government; and the integrity of the Career, Legal, Excepted, Management Supervisory, or Executive Services is being protected and promoted.

Subsection 400.3 of the regulations specifies that whenever a variation is granted, the Director, DCHR, shall publish a statement in the District Personnel Manual (or any other procedural manual developed) showing the following:

- a. The particular practical difficulty or hardship involved;
- b. The variation being permitted, the difference from the requirements of the regulations, and to whom it applies;
- c. The specific circumstances which protect or promote the efficiency of the District government and the integrity of a particular service or services; and
- d. The steps that will be taken to limit the application of the variation only to the duration of the conditions that gave rise to it.

**2. Information with Respect to the Variation being Granted**

- a. Currently, subsections 1813.5, 1813.6(b), 1813.7(a) through (c), and 1813.10 of Chapter 18, Employee Conduct, provide that:

Subsection 1813.5

*On or before April 15th of each year, each agency head shall designate the persons in the*

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*Note: DPM bulletins that are strictly procedural in nature have direct applicability only to agencies and employees under the personnel authority of the Mayor. Other personnel authorities or independent agencies may adopt any or all of these procedures or guidance materials for agencies and employees under their respective jurisdictions. [See DPM Chapter 2, Part II, Subpart 1, § 1.3]*

**Inquiries:** Policy and Compliance Administration, DCHR (202) 442-9700

**Distribution:** Heads of Departments and Agencies, and HR Advisors

**Bulletin Expires:** September 30, 2013

*agency required to submit a Confidential Statement of Employment and Financial Interests by name, position, and grade level, and shall supply this list to the DC Ethics Counselor on or before April 30th of each year.*

**Subsection 1813.6(b)**

*An employee designated by an agency head shall be notified in writing of the following:*

- (b) That he or she may request a review of the designation by the agency head within ten (10) days, after which he or she may appeal to the DC Ethics Counselor within fifteen (15) days; and*

**Subsection 1813.7(a), (b), (c)**

*An employee who has been designated as being required to submit a Confidential Statement of Employment and Financial Interests under § 1813.3 may request a redetermination of the designation as follows:*

- (a) An employee may submit a written request for review to the agency head within ten (10) days of written notification of the designation;*
- (b) The agency head shall make a redetermination, in writing, within fifteen (15) days of receipt of the request; and*
- (c) The agency head's redetermination denying requested relief shall be appealable, in writing, within fifteen (15) days of receipt of the notice of denial, to the DC Ethics Counselor*

**Subsection 1813.10**

*The agency head or his or her designee shall review each employee's Confidential Statement of Employment and Financial Interests and each supplementary statement and, on or before June 15th of each year, shall certify or otherwise report to the DC Ethics Counselor, indicating whether or not persons designated have filed the required statements, and if not, shall provide a list of those employees who have failed to submit the required statements.*

- b.** The recently established Board of Ethics and Government Accountability (BEGA)<sup>1</sup> now has oversight for, among other things, matters pertaining to the reporting of financial interests. District government agencies that would have otherwise designated, by April 15<sup>th</sup>, the persons in their agency required to submit a Confidential Statement of Employment and Financial Interests, must be advised of the requirement to submit the confidential disclosure of financial information (“confidential report”) listing of these employees to BEGA and the D.C. Ethics Counselor on or before May 1<sup>st</sup> of each year.
- c.** The legislation that established BEGA reduced the amount of time in which an employee has to (1) request a review of the designation; and (2) request a redetermination of the designation. Further, the time period in which an agency head has to make a redetermination has also been reduced. In both instances, the time period has been

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<sup>1</sup> The “Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011,” effective April 27, 2012 (D.C. Law 19-124), and the Fiscal Year 2013 Budget Support Act of 2012, effective September 20, 2012 (D.C. Law 19-168)(as amended)

reduced to five (5) days. There has also been a change in the date in which District agencies are required to certify the reports.

- d. In addition, District government agencies are still gaining an understanding of the specific functions transferred to BEGA.

### 3. Variation Being Granted via this E-DPM Bulletin

- a. Due to the reasons stated in Paragraph 2(b) through (d) above, and pursuant to subsection 401.1 of the regulations, the Director, DCHR, hereby grants a variation to provisions in subsections 1813.5, 1813.6(b), 1813.7(a) through (c), and 1813.10 of Chapter 18 of the D.C. personnel regulations, Employee Conduct, concerning the inclusion of BEGA for the receipt of documentation; the timeframe in which to submit a request for review of designation or to request a redetermination of the designation; and for District agencies to certify reports.
- b. The variation being granted via this E-DPM bulletin, which is applicable to eligible employees identified in section 1800, Applicability, of Chapter 18, Employee Conduct, of Subtitle B of Title 6 of the DCMR, is as follows:

#### Subsection 1813.5

*On or before April 15<sup>th</sup> of each year, each agency head shall designate the persons in the agency required to submit a confidential disclosure of financial information ("confidential report") pursuant to subsection 1812.2 (a) of this section by name, position, and grade level, and shall supply this list to the Board of Ethics and Government Accountability and the D.C. Ethics Counselor on or before May 1<sup>st</sup> of each year.*

#### Subsection 1813.6(b)

*An employee designated by an agency head shall be notified in writing of the following:*

- (b) That he or she may request a review of the designation by the agency head within five (5) days; and*

#### Subsection 1813.7(a), (b), (c)

*An employee who has been designated as being required to submit a confidential report under subsection 1813.3 may request a redetermination of the designation as follows:*

- (a) An employee may submit a written request for review to the agency head within five (5) days of written notification of the designation;*
- (b) The agency head shall make a redetermination, in writing, within five (5) days of receipt of the request; and*

- (c) *The agency head's redetermination denying requested relief shall be appealable, in writing, within five (5) days of receipt of the notice of denial to the D.C. Ethics Counselor. Each agency head shall provide to BEGA, by May 15th of each year, a list of employees who have requested a redetermination of designation or made an appeal to the D.C. Ethics Counselor and whose redetermination or appeal is still pending.*

Subsection 1813.10

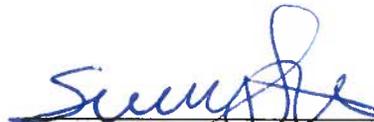
*The agency head or his or her designee shall review each employee's confidential report and each supplementary statement and, on or before May 20<sup>th</sup> of each year, shall certify or otherwise report to the DC Ethics Counselor and BEGA, indicating whether or not persons designated have filed the required reports, and if not, shall provide a list of those employees who have failed to submit the required report.*

- c. Given the circumstances of this variation, its application will be strictly limited to the period needed to complete the action(s)/process(es) described in Paragraph 3(a) and (b) (above) of this E-DPM bulletin.

**4. Required Statement Concerning the Variation**

In accordance with the provisions of subsection 400.3 of Chapter 4, Organization for Personnel Management, this E-DPM bulletin constitutes the statement required under this section of the regulations concerning the variation being granted. The particular practical difficulty or hardship requiring the granting of this variation stems from the following:

- a. The BEGA Act made many changes to the District's laws regulating government employees, including financial disclosure requirements which must be filed in April. The current regulatory provisions governing ethics for government employees are inconsistent with the BEGA Act with respect to financial disclosure filings and in other areas. This E-DPM bulletin addresses pertinent inconsistencies to provide clear guidance to employees about how to comply with the District's ethics laws and regulations.
- b. Due to the filing deadlines imposed by the BEGA Act, other emergent issues, and the need to assure ethical conduct by District government employees, this issuance will address an immediate need to preserve and promote the public welfare.
- c. More specifically, the Director, DCHR, shall issue an amendment to the rules in the near future to clarify the changes referenced in paragraph 3 (a) and (b). The amended rules, when published in final, will eliminate the need to grant a variation such as this in the future.

  
Shawn Y. Stokes  
Director