

CHAPTER 10-EXECUTIVE SERVICE

PART I
D.C. PERSONNEL REGULATIONS
CHAPTER 10
EXECUTIVE SERVICE
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D.C. PERSONNEL REGULATIONS**1000 EXECUTIVE SERVICE**

- 1000.1 The Executive Service is established within the District government to ensure that each subordinate agency head is of the highest quality, is responsible for the effective and efficient management of subordinate agencies, and is responsive to the needs of the citizens and the goals of the District of Columbia government.
- 1000.2 Appointments to Executive Service positions shall be made by the Mayor as provided by §§ 1051 through 1063 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-610.51 *et seq.* (2012 Repl.)).
- 1000.3 Employees appointed to the Executive Service shall serve at the pleasure of the Mayor, except as otherwise provided for by statute.
- 1000.4 The provisions of this chapter shall apply to employees appointed to the Executive Service by the Mayor, including individuals appointed to serve as Chief of Police of the Metropolitan Police Department, Fire Chief of the Fire and Emergency Medical Services Department, and Chancellor of the District of Columbia Public Schools, except as otherwise provided for by statute.
- 1000.5 Employment in the Executive Service shall comply with the Immigration Reform and Control Act of 1986, as amended, which requires that employers hire only citizens and nationals of the United States and aliens authorized to work and verify the identity and employment eligibility of all employees hired after November 6, 1986.
- 1000.6 Except in the case of an individual who meets the following criteria, any person who accepts an appointment or is hired to fill a position in the Executive Service on or after October 1, 2002 shall become a domiciliary of the District of Columbia within one hundred eighty (180) days of the effective date of appointment and shall maintain District of Columbia domicile for the duration of appointment:
- (a) Any person who was an employee of the District of Columbia government on December 31, 1979, and who is still employed by the District of Columbia government without having had a break in service of one (1) workday or more since that date; or
 - (b) Pursuant to the provisions of § 7 of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (P.L. 98-621; 98 Stat. 3376; 24 U.S.C. § 225e(b)), any former employee of the U.S. Department of Health and Human Services at St. Elizabeths Hospital who accepted employment with the District government without a break in service effective October 1, 1987, and who has not had a break in service since that date.

- 1000.7 Except as provided in Subsections 1000.6(a) and (b) of this section, any employee in the Executive Service who was hired prior to October 1, 2002, and who was required to be or become a bona fide resident of the District of Columbia within one hundred eighty (180) days of appointment and maintain such residency for the duration of appointment or forfeit employment shall continue to be bound by the residency requirement that was in effect before October 1, 2002.
- 1000.8 Failure to become a domiciliary of the District of Columbia within the required period of time and to maintain District of Columbia domicile pursuant to this section shall result in forfeiture of employment.
- 1000.9 Notwithstanding the provisions of Subsections 1000.6 through 1000.8 of this section, a person nominated to serve in an acting or interim capacity in the Executive Service shall not become subject to the domicile requirement until after confirmation by the Council and promulgation of a Mayor's Order or a personnel action appointing him or her to the Executive Service position. Specifically, the person shall become a domiciliary of the District of Columbia within one hundred eighty (180) days from the date specified in the Mayor's Order as the date of appointment, or from the effective date of the personnel action processed after Council confirmation to appoint him or her to the position, whichever action occurs first.
- 1000.10 The Director of the D.C. Department of Human Resources (Director of the DCHR) shall inform each employee subject to the provisions of Subsection 1000.9 of this section, in writing, of the exact date by which he or she shall meet the domicile requirement.

1001 EXECUTIVE SERVICE PAY PLAN

- 1001.1 The Executive Service Pay Schedule ("DX Schedule") is divided into five (5) pay levels and is the basic pay schedule for positions in the Executive Service.
- 1001.2 The Director of the DCHR shall provide relevant criteria for consideration by the Mayor in designating the appropriate pay level within the DX Schedule for each position in the Executive Service. Criteria shall include, but not be limited to, the following:
- (a) Agency budget characteristics;
 - (b) Agency workforce characteristics;
 - (c) Complexity of agency mission and functions; and
 - (d) Desired qualifications for, or the impact of the person on, the position.
- 1001.3 A person appointed to a position in the Executive Service shall be appointed at the pay level on the DX Schedule designated for that position, and shall receive a salary set at any amount within the salary range that the Mayor determines to be appropriate.

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- 1001.4 Any individual appointed to the position of Chief of Police of the Metropolitan Police Department, Fire Chief of the Fire and Emergency Medical Services Department, Chief Medical Examiner of the Office of the Chief Medical Examiner, or Chancellor of the District of Columbia Public Schools after February 24, 2012, shall be subject to compensation within the limits of the DX Schedule.
- 1001.5 Any individual appointed to the position of Director, Department of Forensic Science after June 19, 2013, shall be subject to compensation within the limits of the DX Schedule.
- 1001.6 The Mayor, at his or her sole discretion, may change the salary of any person holding an appointment in the Executive Service at any time to any other salary within the salary range for the level occupied.
- 1001.7 The salary of an Executive Service employee who is temporarily assigned to a position at a higher or lower level in the DX Schedule shall be set, at the discretion of the Mayor, at any salary within the salary range of the level to which the employee is temporarily assigned or at a salary within the salary range of the level of the employee's regular Executive Service position.
- 1001.8 A person paid from the DX Schedule shall not be entitled to premium pay.
- 1001.9 A person holding an appointment in the Executive Service on the effective date of this section shall continue to be paid his or her existing salary until the Mayor effects a personnel action establishing a salary within the salary range for the designated level of the position on the DX Schedule.
- 1001.10 The Director of the DCHR shall publish procedures to implement this section, including the level designated by the Mayor for each Executive Service position.

1002 SUBSEQUENT APPOINTMENTS

- 1002.1 Except as provided in Subsection 1002.2 of this section, no person holding a position in the Executive Service may be appointed to a position in the Career, Educational, or Management Supervisory Service for at least one (1) year immediately following his or her separation from the Executive Service.
- 1002.2 Upon termination from the Executive Service, a person with Career, Educational, or Management Supervisory Service status may retreat, at the discretion of the Mayor and in such service in which he or she has status, within three (3) months, to a vacant position for which he or she is qualified.

1003 PRE-EMPLOYMENT TRAVEL AND RELOCATION EXPENSES AND TEMPORARY HOUSING ALLOWANCE

- 1003.1 An agency may pay an individual reasonable travel expenses, up to a maximum of five thousand dollars (\$5,000), incurred incidental to pre-employment interviews held for the purpose of ascertaining his or her qualifications for a position in the Executive Service.
- 1003.2 An agency may pay reasonable relocation expenses for the individual and his or her immediate family when the individual is selected for or appointed to a position in the Executive Service, if that relocation is to the District of Columbia from outside the Greater Washington Metropolitan Area.
- 1003.3 In the case of an individual eligible for reasonable relocation expenses pursuant to Subsection 1003.2 of this section, an agency may pay a reasonable temporary housing allowance for a period not to exceed sixty (60) days for the individual and his or her immediate family.
- 1003.4 Payment of expenses under Subsections 1003.2 and 1003.3 of this section may only be made after the selectee or appointee signs a notarized agreement to remain in the District government service for twelve (12) months after his or her appointment, unless separated for reasons beyond his or her control that are acceptable to the Mayor.
- 1003.5 Any expense incurred for which reimbursement is sought pursuant to this section must be supported by a valid receipt or invoice, the original of which must be submitted with the request for reimbursement.
- 1003.6 If an individual violates an agreement under Subsection 1003.4 of this section, the money paid by the District government for expenses shall be a debt due to the District government and shall be recoverable by set-off, in accordance with Chapter 29 of these regulations, against accrued pay or any other amount due the individual.

1004 EMPLOYMENT CONTRACT

- 1004.1 Pursuant to § 1064 of the CMPA (D.C. Official Code § 1-610.64 (2012 Repl.)), the Mayor shall not enter into an employment contract with a subordinate agency head that contains terms and conditions of employment that are inconsistent with existing laws.
- 1004.2 If the Mayor enters into an employment contract with a subordinate agency head, the employment contract shall be posted on the DCHR's website within thirty (30) days of signing. The posting of the contract is subject to relevant exemptions pursuant to § 2-534 (D.C. Official Code § 1-610.64 (2012 Repl.)) and required disclosures pursuant to § 2-536 (D.C. Official Code § 1-610.64 (2012 Repl.)).
- 1004.3 An employment contract, if any, with a subordinate agency head shall be submitted to the Council with the transmittal of the nomination of the subordinate agency head.

1005 PERFORMANCE CONTRACT

- 1005.1 The Mayor shall set performance expectations and goals for each subordinate agency head in a written annual performance contract. The performance contract shall outline agency-specific and operational goals, with a corresponding timeline for accomplishment of each goal. Both the Mayor and the subordinate agency head shall sign the annual performance contract.
- 1005.2 Each subordinate agency head shall be evaluated on an annual basis on the achievement of the performance expectations and goals in the performance contract for that year.
- 1005.3 The performance rating period for each subordinate agency head shall be from the beginning of each fiscal year to the end of the fiscal year.

1006 PERFORMANCE INCENTIVES

- 1006.1 Pursuant to § 1057 of the CMPA (D.C. Official Code § 1-610.57 (2012 Repl.)), the Mayor may authorize performance incentives for exceptional service by a subordinate agency head.
- 1006.2 A performance incentive may be paid only once in a fiscal year, and only when the agency head is subject to an annual performance contract that clearly identifies measurable goals and outcomes and the agency head has exceeded contractual expectations in the year for which the incentive is to be paid.
- 1006.3 The amount of a performance incentive shall be determined by the Mayor and shall not exceed ten percent (10%) of the employee's rate of basic pay in any year.
- 1006.4 A performance incentive pursuant to this section shall be approved as specified in Subsection 1006.6 of this section.
- 1006.5 A performance incentive granted under this section shall not be considered base pay for any purpose, and shall be subject to the withholdings of federal, District of Columbia, and State income taxes, and social security taxes, if applicable. The amount of a performance incentive shall not be adjusted upward to cover these taxes.
- 1006.6 Performance incentives pursuant to this section shall be approved in accordance with procedures established by the Director of the DCHR. The procedures shall provide for the following approval authorities, which may be further limited by written instruction from the Mayor when deemed to be in the best interests of the District government:
- (a) The Mayor may approve performance incentives exceeding two thousand dollars (\$2,000) for subordinate agency heads (not including the Director of the DCHR) as specified in Subsection 1006.6(c) of this section.

- (b) The Mayor may grant a performance incentive to the Director of the DCHR after review and recommendation by the City Administrator.
- (c) To advise the Mayor in reviewing and recommending performance incentives for subordinate agency heads (excluding the Director of the DCHR), the Mayor shall appoint a committee comprised of all Deputy Mayors, the Mayor's Chief of Staff, the City Administrator, and the Director of the DCHR (or his or her designee). The committee shall meet at least once every year to discuss annual performance incentives for subordinate agency heads.

1007 ADDITIONAL INCOME ALLOWANCE FOR MEDICAL OFFICERS

1007.1 Pursuant to § 1056 of the CMPA (D.C. Official Code § 1-610.56 (2012 Repl.)), at the discretion of the Mayor, a subordinate agency head who is required to hold a medical degree and who enters into a service agreement, may be paid an additional income allowance of up to fifteen percent (15%) of the maximum rate of pay for the level held.

1008 SEPARATION PAY

1008.1 Pursuant to § 1058 of the CMPA (D.C. Official Code § 1-610.58 (2012 Repl.)), at the discretion of the Mayor and subject to the provisions of this section, a subordinate agency head may receive separation pay of up to twelve (12) weeks upon separation from District government service, provided that the agency head has been employed by the District government in the position from which separating for at least one (1) year prior to separation. Any separation pay granted to a subordinate agency head who has been employed by the District government for less than one (1) year prior to separation shall not exceed four (4) weeks of his or her basic pay.

1008.2 The number of weeks of separation pay authorized pursuant to this section shall not exceed the number of weeks between the individual's separation and the individual's appointment to another position in the District government.

1008.3 Separation pay, if authorized pursuant to Subsection 1008.1 of this section, shall be provided at the time of separation from the District government as a lump-sum, one-time payment, subject only to the withholdings of federal, District of Columbia, and State income taxes, and social security taxes, if applicable.

1008.4 Separation pay shall not be payable to any individual who:

- (a) Accepts an appointment to another position in the District government without a break in service; or
- (b) Is eligible to receive an annuity under any retirement program for employees of the District government, excluding the District retirement program under § 2605 of the CMPA (D.C. Official Code § 1-626.05 (212 Repl.)).

1008.5 An individual who receives separation pay pursuant to this section, and who is subsequently appointed to any position in the District government during the period of weeks represented by that payment, shall be required to repay the amount of separation pay attributable to the period covered by such appointment. The pro-rated amount to be repaid shall be based on the entire amount of the separation pay, including all deductions for taxes, *etc.*, and shall be paid to the agency that made the separation payment.

1009 UNIVERSAL LEAVE

1009.1 An employee appointed on or after January 2, 1999 without a break in service from another position in the District government to serve in an acting or interim capacity in an Executive Service position shall not become subject to the provisions of this section until confirmation by the Council and promulgation of the Mayor's Order appointing him or her to the Executive Service position, whereupon applicability of this section shall become effective as of the date specified by Mayor's Order as the effective date of that appointment.

1009.2 Each Executive Service employee shall have a universal leave account.

1009.3 On the first pay period of the leave year, each individual shall have his or her universal leave account credited with two-hundred eight (208) hours of universal leave.

1009.4 Except as provided in Subsection 1009.5 of this section, each full biweekly pay period represents eight (8) hours of accrued universal leave.

1009.5 Each Executive Service employee appointed after the first pay period of the leave year shall have his or her leave account credited with universal leave on a pro rata basis.

1009.6 An Executive Service employee who initially enters on duty on any workday of a biweekly pay period shall receive credit for the entire biweekly pay period for purpose of crediting universal leave.

1009.7 Universal leave provided by this chapter shall be used on days on which an Executive Service employee would otherwise work and receive pay and shall be exclusive of official holidays and non-workdays established by statute or administrative order.

1009.8 There shall be no charge to universal leave for absences of less than two (2) hours.

1009.9 An Executive Service employee may carry over not more than forty (40) hours of unused universal leave for use in succeeding years. All other unused leave shall be forfeited at the end of the leave year.

- 1009.10 Upon separation, an Executive Service employee shall be paid for any universal leave remaining to his or her credit (less a pro-rated amount representing the portion of the universal leave that would be creditable for the remainder of the year).
- 1009.11 Payment for leave upon separation from the Executive Service as provided in Subsection 1009.10 of this section shall be at the employee's rate of pay at the time of separation.
- 1009.12 Except as provided in Subsection 1009.14 of this section, each employee who was in the Executive Service on or before January 2, 1999 shall have his or her accrued annual leave balance, up to a maximum of two hundred forty (240) hours, transferred to an annual leave escrow account for use at the discretion of the employee until exhausted.
- 1009.13 The employee shall be given a lump-sum payment for any annual leave in excess of the leave transferred pursuant to Subsection 1009.12 of this section, payable at the rate of pay in effect on the last day of the last pay period of the 1998 leave year.
- 1009.14 Each employee appointed without a break in service to a position in the Executive Service from another position in the District government on or after October 21, 1998 shall have his or her accrued annual leave balance, up to a maximum of two hundred forty (240) hours, transferred to an annual leave escrow account for use at the discretion of the employee until exhausted.
- 1009.15 The employee shall be given a lump-sum payment for any annual leave in excess of the leave transferred pursuant to Subsection 1009.14 of this section, payable at the rate of pay in effect immediately before his or her appointment to the Executive Service.
- 1009.16 Upon separation, an Executive Service employee shall be paid for any annual leave remaining in the annual leave escrow account.
- 1009.17 Sick leave credit of an Executive Service employee that was accrued under § 1203(j) of the CMPA (D.C. Official Code § 1-612.03(j) (2012 Repl.)) shall be held in a sick leave escrow account and may be used at the discretion of the employee until exhausted.
- 1009.18 Any balance remaining in a sick leave escrow account at the time of retirement of an Executive Service employee under the U.S. Civil Service Retirement System (Chapter 83 of Title 5 of the U.S. Code) or the Police and Fire Retirement System (D.C. Official Code § 5-701 *et seq.* (2012 Repl.)) shall be available for use as additional service credit under the provisions of the applicable retirement system.
- 1009.19 When an employee elects to use leave from either the annual leave escrow account or the sick leave escrow account, such usage shall only be charged for absences of more than two (2) hours.

1010 RETIREMENT BENEFITS

1010.1 An employee first hired after September 30, 1987, may elect to participate in the District's defined contribution plan or may elect to have the funds that would otherwise be contributed by the District under the defined contribution plan directed to another 401(a) retirement plan.

1011 LIFE INSURANCE BENEFITS

1011.1 In addition to life insurance coverage provided in Chapter 22 of these regulations, Executive Service employees may receive additional coverage not to exceed twice the rate of the employee's basic pay. The cost of this coverage shall be at the District government's expense.

1012 DISABILITY INCOME PROTECTION PROGRAM [RESERVED]**1099 DEFINITIONS**

1099.1 When used in this chapter, the following terms shall have the meaning ascribed:

Executive Service – except as modified by § 1009.1 for purposes of §1009, any subordinate agency head position under the administrative control of the Mayor, to which the Mayor is authorized to appoint executives in accordance with §§ 1051 through 1063 of the CMPA (D.C. Official Code § 1-610.51 *et seq.*) (2012 Repl.).

Greater Washington Metropolitan Area – the Consolidated Metropolitan Statistical Area which includes Washington, D.C. (the “Washington-Baltimore, DC-MD-VA-WV CMSA”), as defined by the Office of Management and Budget June 30, 1998 (revised November 3, 1998), and which consists of the following:

- (a) The Baltimore, MD Primary Metropolitan Statistical Area (PMSA), consisting of Anne Arundel County, Baltimore County, Carroll County, Harford County, Howard County, Queen Anne's County, and Baltimore city;
- (b) The Hagerstown, MD PMSA, consisting of Washington County; and
- (c) The Washington, DC-MD-VA-WV PMSA, consisting of the District of Columbia; Calvert County, MD; Charles County, MD; Frederick County, MD; Montgomery County, MD; Prince George's County, MD; Arlington County, VA; Clarke County, VA; Culpeper County, VA; Fairfax County, VA; Fauquier County, VA; King George County, VA; Loudoun County, VA; Prince William County, VA; Spotsylvania County, VA; Stafford County, VA; Warren County, VA; Alexandria city, VA; Fairfax city VA; Falls Church city, VA; Fredericksburg city, VA; Manassas city, VA; Manassas Park city, VA; Berkeley County, WV; and Jefferson County, WV.

Performance contract – an agreement between an agency head and the Mayor or the City Administrator that may be entered into and that clearly identifies measurable goals and outcomes.

Pre-employment travel expenses – expenses allowed for an individual pursuant to § 1003.1, which may include such items as hotel accommodations, travel (commercial carrier, privately owned vehicle, *etc.*), and a per diem allowance.

Relocation expenses – expenses allowed for an individual and his or her immediate family pursuant to § 1003.2, which may include such items as transportation of family, transportation of household goods and expenses related thereto, temporary storage expenses, relocation services company, property management services, and a per diem allowance.

Subordinate agency – any agency under the direct administrative control of the Mayor, including, but not limited to, the agencies listed in § 301(q) of the CMPA (D.C. Official Code § 1-603.01(17)) (2012 Repl.).

Temporary housing allowance – subsistence expenses incurred by an individual and his or her immediate family while occupying lodging obtained for the purpose of temporary occupancy when authorized pursuant to § 1003.3.

D.C. Register Updates for Chapter 10 of the D.C. Personnel Regulations, Executive Service

The following *D.C. Register* citations identify when a given section(s) of Chapter 10, Executive Service, of Title 6 of the District of Columbia Municipal Regulations, was amended. Following the publication in the *D.C. Register* of subsequent final rulemaking notices, this Addendum will be updated accordingly.

For the convenience of DPM subscribers, the Addendum identifies amendments on a section-by-section basis; identifies the page(s) in a DPM Transmittal impacted by the amendment(s); and provides brief comments on the amendment(s) accomplished.

<i>D.C. Register</i> Date	Section(s)	Change(s) Reflected on Page(s)	Comments
47 DCR 6224 (8/4/00)	Entire Chapter	DPM Transmittal No. 61	These rules amended the chapter to establish new provisions for Executive Service employees to allow performance incentives, allow reimbursement for certain travel and relocation expenses for Executive Service employees, develop a universal leave system, and provide up to twelve (12) weeks of separation pay.
50 DCR 6707 (8/15/03)	Section(s) 1000, 1003, and 1004	DPM Transmittal No. 102	These rules amended the chapter to new language on the domicile requirement applicable to appointees to the Executive Service and provide that a person serving in an acting or interim capacity shall become subject to the domicile requirement upon confirmation by the Council and promulgation of the Mayor's Order or personnel action appointing him or her to the Executive position; implement the provisions of the Executive Service Pay Plan; delete the dollar amount specified in the chapter for the payment of temporary housing allowances and relocation expenses, or both; added provisions on performance contract; clarify the provisions regarding payment of performance incentives and specify that Executive Service employees shall not be eligible to receive monetary awards pursuant to Chapter 19.

51 DCR 9017 (9/17/04)	Section(s) 1005 and 1006	DPM Transmittal No. 116	The rules have been amended to modify Section 1005 to include language on the procedures for approval of performance incentives, and add Section 1006 provisions for additional income allowance for medical officers.
61 DCR 008761 (8/22/14)	Section(s) 1000; 1001; 1004; 1009; 1010; and 1011	DPM Transmittal No. 218	The rules have been amended to add language freezing the salaries of incumbents occupying the Chief of the Metropolitan Police Department, Chief of Fire and Emergency Medical Services Department, Chancellor of the District of Columbia Public Schools, and Director of the Department of Forensic Science positions; (2) to add language to require that employment contracts with subordinate agency head be consistent with existing laws and that they be posted on the DCHR's website within thirty (30) days of signing. The employment contracts must also be submitted to the D.C. Council with the transmittal of the nomination of the subordinate agency head; (3) amend Section 1009 (<i>Universal Leave</i>) to reduce the amount of hours a subordinate agency head in the Executive Service can be charged universal leave for any absence less than 8 hours to 2 hours, and convert the number of days referenced in the section to hours; and (4) amend Sections 1010 (<i>Retirement Benefits</i>) and 1011 (<i>Life Insurance Benefits</i>) to add language on these benefits.