

**PART I**  
**D.C. PERSONNEL REGULATIONS**  
**CHAPTER 12**  
**HOURS OF WORK, LEGAL HOLIDAYS AND LEAVE**  
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## ***D.C. PERSONNEL REGULATIONS***

### **1201 STATUTORY AUTHORITY AND APPLICABILITY**

- 1201.1 The statutory authority for this chapter is Title XII 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 §§ 1-612.01, *et seq.* (2006 Repl. & 2011 Supp.)).
- 1201.2 The provisions in this chapter shall apply to all District government employees except the following:
- (a) Employees in the Executive Service appointed under the authority of Title X-A of the CMPA (D.C. Official Code § 1-610.51 *et seq.*) (2006);
  - (b) Uniformed members of the Metropolitan Police Department and the Fire and Emergency Medical Services Department;
  - (c) Members of a board or commission whose pay is fixed under section 1108 of the CMPA (D.C. Official Code § 1-611.08) (2006); and
  - (d) Educational Service employees of the Board of Trustees of the University of the District of Columbia appointed under the authority of section 801-A of the CMPA (D.C. Official Code § 1-608.01a) (2006).
- 1201.3 The provisions of a collective bargaining agreement shall take precedence over the provisions of this chapter for those employees covered by such an agreement, to the extent that there is a difference.

### **1202 DELEGATION OF AUTHORITY**

- 1202.1 Whenever in this chapter it is provided that a decision may be made or an action may be taken by “the Mayor,” an “agency head,” the “Director, D.C. Department of Human Resources,” a “personnel authority,” or “another designated official,” the authority to make such a decision or take such an action may be delegated to a designee, unless specifically indicated otherwise.

### **1203 ESTABLISHMENT OF WORKWEEKS**

- 1203.1 An agency head shall establish the following with respect to each group of full-time employees to whom this chapter applies:
- (a) A basic workweek of forty (40) hours that does not extend over more than six (6) of any seven (7) consecutive calendar days; and, except as provided in section 1203.2 of this section, the calendar days constituting the basic workweek and the number of hours of employment for each calendar day included within the basic workweek shall be specified; and

- (b) A scheduled tour of duty that consists of the forty-hour (40-hour) basic workweek established in accordance with section 1203.1 (a) of this section, plus any period of overtime work regularly required of each group of employees; and, except as provided in section 1203.2 of this section, for purposes of leave and overtime pay administration, the calendar days and number of hours a day of the periods included in the scheduled tour of duty that do not constitute a part of the basic workweek shall be specified.

- 1203.2 The scheduled tour of duty shall be the total number of regularly scheduled hours of duty a week, including standby time, and excluding time allowed for sleep and meals.
- 1203.3 An agency head may provide for the allowance of a specific number of hours out of each twenty-four (24) hours at the official duty station for sleep and meals; however, the time allowed for sleep and meals need not be specifically identified.
- 1203.4 An employee who works two (2) shifts that begin within the same twenty-four hour (24-hour) period in the basic workweek shall be paid for two (2) days of work at the regular basic pay rate – the first (1<sup>st</sup>) shift being counted as of the day on which it begins and the second (2<sup>nd</sup>) shift as of the day on which it ends.
- 1203.5 The occurrence of holidays shall not affect the designation of the basic workweek.

#### **1204 ESTABLISHMENT OF SCHEDULED TOURS OF DUTY**

- 1204.1 Agencies shall establish scheduled tours of duty consistent with the provisions of section 1204.2 of this section, except when the Mayor determines that an agency would be seriously handicapped in carrying out its functions, or that costs would be substantially increased, and mandates an alternative work schedule as provided in section 1209 of this chapter.
- 1204.2 The following provisions shall apply to the establishment of scheduled tours of duty:
- (a) Assignments to tours of duty shall be scheduled in advance over periods of not less than one (1) week;
  - (b) Except when an alternative work schedule has been approved as provided in section 1209 of this chapter:
    - (1) The basic forty-hour (40-hour) workweek shall be scheduled on five (5) days, Monday through Friday when possible, and the two (2) days outside the basic workweek shall be consecutive;
    - (2) The working hours in each day in the basic workweek shall be the same; and
    - (3) The basic non-overtime workday shall not exceed eight (8) hours;
  - (c) The occurrence of holidays shall not affect the designation of the scheduled tour of duty;

- (d) Breaks in non-work time totaling more than one (1) hour shall not be scheduled during the working hours of a basic workday, except when a flexible work schedule has been approved as provided in section 1208 of this chapter;
- (e) As specified in section 1212 of this chapter, and with the exceptions noted in that section, a lunch period shall be provided;
- (f) For a part-time employee, a scheduled tour of duty shall consist of the officially prescribed days and hours within the administrative workweek during which the employee is required to be on duty regularly;
- (g) The work schedule of an employee who also serves as a member of a board or commission may be established to accommodate attendance at official meetings; and
- (h) Agencies shall make every reasonable effort to schedule tours of duty of an employee who is a member of a reserve component of the U.S. Armed Forces, as defined in section 1262.1 of this chapter, to avoid any conflict with his or her attendance at evening or weekend drills.

1204.3 An agency may require an employee to work overtime hours in addition to his or her scheduled tour of duty.

## **1205 VARIATIONS IN WORK SCHEDULES FOR EDUCATIONAL PURPOSES**

1205.1 This section applies to training, whether or not it is provided in accordance with Chapter 13 of these regulations.

1205.2 Notwithstanding the provisions of section 1203.1 of this chapter, an agency head may authorize an employee to work a tour of duty of not less than forty (40) hours in order to permit the employee to take one (1) or more courses in a college, university, or other educational institution when all of the following conditions are met:

- (a) The tour of duty will not appreciably interfere with the accomplishment of the work required to be performed;
- (b) The agency's cost is not substantially increased by allowing the employee to take the course or courses; and
- (c) Completion of the course or courses is related to the employee's position, and would equip the employee for more effective work in the District government.

1205.3 Employees who have been granted a variation in the tour of duty for educational purposes shall not be entitled to premium pay where the variation in tour of duty has resulted in the employee's tour of duty occurring at a time of day for which premium pay would otherwise be payable.

1205.4 In every case where an employee has been granted a change in their tour of duty for educational purposes, the employee shall be required to sign a statement acknowledging the conditions of the change in tour including the forfeiture of premium pay in accordance with

the conditions set forth in 1205.3 of this section.

- 1205.5 A tour of duty for educational purposes may not be established if it would cause a supervisor to become entitled to premium pay because the supervisor's schedule must be changed so as to provide supervision of the employee.
- 1205.6 A variation in an employee's change in tour of duty for educational reasons may be rescinded by the agency head whenever the variation has resulted in the employee's failure to accomplish the work in the office or for other reasons within the discretion of the agency head.
- 1205.7 Whenever an agency determines that the variation of the tour of duty is to be rescinded, the employee shall be given where practicable at least one week's notice of the rescission.
- 1205.8 The variation in tour of duty for educational purposes shall be rescinded at the completion of the training program and upon notice by the employee that the course or training has been completed. The employee shall return to the tour of duty that existed prior to receiving the educational variation unless such tour has been changed by the employee's supervisor.
- 1205.9 Failure of an employee to inform the supervisor of the completion of or discontinuation of the training or course so that the regularly established tour can be re-established shall result in the forfeiture of the employee's opportunity to receive future variations and where appropriate will result in disciplinary action.

## **1206 VARIATIONS IN WORK SCHEDULES FOR RELIGIOUS OBSERVANCES**

- 1206.1 Pursuant to section 701 (b) through (f) of the CMPA (D.C. Official Code § 1-607.01 (b) through (f)) (2006), and notwithstanding the provisions of section 1203.1 of this chapter, and to the extent that a variation in a work schedule does not result in a substantial disruption of District government business, an employee whose personal religious beliefs require that he or she abstain from working at certain times of the workday or workweek shall be entitled to reasonable accommodation for the free exercise of religion.
- 1206.2 The accommodation to be provided may include an adjustment in the work schedule when the employee elects to make up the time off rather than to charge the time off to leave.
- 1206.3 If the need to take the time off for religious reasons is foreseeable, the employee shall request an adjustment of his or her work schedule as provided in section 1206.2 of this section and obtain supervisory approval of the adjustment at least ten (10) days before taking time off from work.
- 1206.4 A request to adjust the employee's work schedule may be disapproved if it is demonstrated that the adjustment would clearly interfere with the efficient conduct of the activities of the employing agency.
- 1206.5 Nothing in this section shall be construed to totally exempt an employee from being required to work rotating shifts including working on weekends as a result of religious preferences.
- 1206.6 Nothing in this section shall be construed to limit the use of other forms of leave authorized



by this chapter.

1206.7 Each personnel authority shall provide written notice to an employee, at the time that the employee accepts employment that he or she may receive the religious accommodation described in section 1206.1 of this section.

## **1207 TRAVEL ON OFFICIAL TIME**

1207.1 Insofar as practicable, travel during non-duty hours shall not be required of an employee.

1207.2 When an employee is required to travel outside of his or her regularly scheduled administrative workweek, the employee is to be given overtime compensation in accordance with the conditions for determining “hours of employment” in section 1207.3 of this section.

1207.3 In determining “hours of employment” for purposes of entitlement to overtime compensation, time spent in travel status away from an employee’s official duty station shall be deemed to be “hours of employment” only when any one (1) or more of the following is true:

- (a) The travel takes place within the days and hours of the employee’s scheduled tour of duty, including regular overtime work; or
- (b) If the hours are outside of the employee’s regularly scheduled administrative workweek, is ordered or approved, and meets any of the following conditions:
  - (1) The travel involves the performance of work while traveling;
  - (2) The travel is incidental to travel that involves performance of actual work while traveling;
  - (3) The travel is carried out under such arduous and unusual conditions which make the travel inseparable from work; or
  - (4) The travel results from an event that could not be scheduled or controlled administratively.

## **1208 FLEXIBLE WORK SCHEDULE**

1208.1 Pursuant to section 1201 (e) of the CMPA (D.C. Official Code § 1-612.01 (e)) (2006), a flexible work schedule may be established by an agency for one (1) or more employees when such work schedule is considered both practicable and feasible in terms of employee morale, increased productivity, and improved service to the public.

1208.2 A flexible work schedule may be established by an agency only if agency management determines that the schedule will not have an adverse impact on public service, and that costs will not increase substantially.

1208.3 Employee participation in a flexible work schedule shall be voluntary. A flexible work schedule, if established, must be offered on an equal basis to all employees of the agency, or the subordinate component of the agency involved. However, an agency head may determine that the work of certain subordinate components of the agency is not conducive to flexible work schedules and may restrict the ability to work flexible work schedules to certain components of the agency.

- 1208.4 The decision of the agency head with respect to limiting the subordinate components within the agency to flexible work schedules is final and not appealable.
- 1208.5 The basic requirements for establishing a flexible work schedule shall be as follows:
- (a) The designation of core time during which all employees are required to be present, except for authorized lunch periods;
  - (b) The designation of flexible time periods during which the employee has the option of selecting and varying his or her starting and quitting time within established limits, but such flexible time periods may not commence prior to 6:00 a.m., nor end after 6:00 p.m.;
  - (c) The maintenance of accurate time and attendance controls to ensure that each employee works or otherwise accounts for eight (8) hours per day, five (5) days per week; and
  - (d) Prior approval by the appropriate personnel authority.
- 1208.6 A flexible work schedule shall not be combined with an alternative work schedule under section 1209 of this chapter, a compressed work schedule under section 1210 of this chapter, or telecommuting under section 1211 of this chapter.

## **1209 ALTERNATIVE WORK SCHEDULE**

- 1209.1 An alternative work schedule may be mandated by the Mayor as provided in section 1204.1 of this chapter, or established by an agency as provided in this section.
- 1209.2 Pursuant to section 1201 (e) of the CMPA (D.C. Official Code § 1-612.01 (e)) (2006), an alternative work schedule may be established by an agency for one (1) or more employees when such work schedule is considered practicable and feasible.
- 1209.3 An alternative work schedule may be established by an agency only if costs are not substantially increased.
- 1209.4 Except in the case of an alternative work schedule mandated by the Mayor under section 1209.1 of this section, employee participation in alternative work scheduling shall be voluntary. An alternative work schedule, if established, must be offered on an equal basis to all employees of the agency, or to all employees of the subordinate component of the agency involved, as applicable. However, an agency head may determine that the work of certain subordinate components of the agency is not conducive to an alternative work schedule and may restrict the ability to work alternative work schedules to certain components of the agency.
- 1209.5 The decision of the agency head with respect to limiting the subordinate components within the agency to alternative work schedules is final and not appealable
- 1209.6 The basic requirements for establishing an alternative work schedule shall be as follows:

- (a) The basic forty-hour (40-hour) workweek may be scheduled on fewer than five (5) days;
- (b) The working hours in each day of the basic workweek need not be the same; and
- (c) The basic non-overtime workday may exceed eight (8) hours.

1209.7 An alternative work schedule shall not be combined with a flexible work schedule under section 1208 of this chapter, a compressed work schedule under section 1210 of this chapter, or telecommuting under section 1211 of this chapter.

## **1210 COMPRESSED WORK SCHEDULE**

1210.1 Pursuant to D.C. Official Code § 1-510 (2006), section 7 of the Fair Labor Standards Act of 1938 (FLSA), as amended, (29 U.S.C. § 207) shall not apply to the hours of work of a District government employee that constitute a compressed work schedule.

1210.2 A compressed work schedule shall be the number of hours, excluding overtime hours, an employee is required to work or account for in a biweekly pay period that enable the employee to complete an eighty-hour (80-hour) work schedule in fewer than ten (10) workdays.

1210.3 The tour of duty for each employee under a compressed work schedule program shall be defined by a fixed schedule established by the agency.

1210.4 The established work schedule of an employee working a compressed work schedule may not exceed ten (10) hours for any workday.

1210.5 A compressed work schedule may be established by an agency only if agency management determines that the schedule will not have an adverse impact on public service, and that costs will not increase substantially.

1210.6 A compressed work schedule shall not be combined with a flexible work schedule under section 1208 of this chapter, an alternative work schedule under section 1209 of this chapter, or telecommuting under section 1211 of this chapter.

## **1211 TELECOMMUTING**

1211.1 Telecommuting is an arrangement in which an employee regularly performs officially assigned duties at home or other work sites geographically convenient to the residence of the employee.

1211.2 Based on the needs of the organization, and to the maximum extent possible without diminishing employee performance, each agency is authorized to establish telecommuting for eligible employees of the agency.

1211.3 Telecommuting shall be part of a scheduled tour of duty and subject to a written agreement.

- 1211.4 Requests to engage in telecommuting must be signed by the employee, the employees supervisor and certify that the conditions set forth in 1211.7 apply to this employee.
- 1211.5 Unless otherwise approved by the personnel authority, telecommuting shall be limited to not more than two (2) days per workweek.
- 1211.6 Positions best suited for telecommuting are those that:
- (a) Have job tasks that are quantifiable, primarily project or case-work oriented, telephone intensive, or computer-oriented; or have work activities that can be accommodated working away from the current work location with equal efficiency as being performed at the official work site;
  - (b) Do not require daily unscheduled face-to-face contact with other employees, supervisors, or the public in the current work location; and
  - (c) Allow meetings to be scheduled without inconveniencing or impairing the performance of co-workers.
- 1211.7 Telecommuting shall not be combined with a flexible work schedule under section 1208 of this chapter, an alternative work schedule under section 1209 of this chapter, or compressed work schedule under section 1210 of this chapter.
- 1211.8 Authorization to engage in telecommuting may be rescinded by the agency head whenever the agency head determines that the employee has failed to accomplish the work as prescribed, or for other reasons.
- 1211.9 Whenever an agency determines that the approval for telecommuting is to be rescinded, the employee shall be given, where practicable, at least one week's notice of the rescission.
- 1211.10 Upon the termination of the telecommuting approval, the employee shall return to the tour of duty that existed prior to receiving approval to engage in telecommuting, unless the tour of duty has been changed by the employee's supervisor in accordance with applicable rules.
- 1211.11 Failure of an employee to return to his or her regular tour of duty upon the rescission of the authorization to engage in telecommuting, shall result in the forfeiture of the employee's opportunity to receive engage in telecommuting in the future and where appropriate will result in disciplinary action.

## **1212 REST AND LUNCH PERIODS**

- 1212.1 At the discretion of an agency head, a rest period of fifteen (15) minutes during each four (4) hour period of work may be authorized.
- (a) Rest periods for an individual employee or small groups of employees are authorized whenever such rest period would accomplish one (1) or more of the following purposes:
    - (1) Protect employees' health by providing relief from hazardous work or work

- that requires continuous or considerable physical exertion;
- (2) Reduce accident rates by removing the potential for fatigue;
  - (3) Provide relief from work that is performed in confined spaces where normal personal activities are restricted; or
  - (4) Increase or maintain high quality and quantity work product;
- (b) When rest periods with a specific duration (such as, fifteen (15) minutes as specified in subsection 1212.1(a) of this section) are offered, they are to be considered as compensable work hours as part of the employee's regularly scheduled duty hours. The unauthorized extension of a rest period with a specific duration shall not be counted as hours worked; and
  - (c) Rest periods shall not be utilized by an employee to expand his or her regularly scheduled lunch period of thirty (30) minutes by permitting the employee to take his or her rest periods immediately before or immediately after the employee's scheduled lunch period.
- 1212.2 A lunch period of at least thirty (30) minutes shall be provided to employees, except for an employee required to remain at his or her official duty station so that the agency can provide twenty-four (24) hour coverage, in which case, the employee shall be compensated.
- 1212.3 An employee's thirty (30)-minute lunch period shall be in addition to his or her regularly scheduled duty hours. That is, a bona fide lunch period shall not be considered as work time and is not compensable. For that reason, the thirty-minute (30-minute) lunch period shall be added to the employee's regularly scheduled duty hours.
- 1212.4 At the discretion of the supervisor, an employee who wants to take a one-hour (1-hour) lunch period may be allowed to add the extra half (½) hour to his or her regularly scheduled duty hours to account for the extra non-compensable time for lunch. For example, instead of working from 8:00 a.m. to 4:30 p.m. (for example, eight (8) hours of compensable work time plus a thirty-minute (30-minute) lunch period), the employee may be allowed to work until 5:00 p.m. (for example., eight (8) hours of compensable work time plus a one-hour (1-hour) lunch period). Lunch periods of more than one (1) hour shall not be permitted.
- 1212.5 The lunch period is separate and distinct from a rest period.
- 1212.6 An employee shall not be authorized to depart work in order to either begin a period of leave or in order to end the employee's official tour of duty because he or she refrained from taking a scheduled rest or lunch period.

### **1213 CHANGES IN SCHEDULED TOURS OF DUTY**

- 1213.1 Scheduled tours of duty in effect when these regulations become effective shall remain in effect until action is taken in accordance with these regulations to implement a change.

### **1214 THRU 1219 – RESERVED**

**1220 LEGAL PUBLIC HOLIDAYS**

- 1220.1 Pursuant to section 1202(a) of the CMPA (D.C. Official Code § 1-612.02 (a) (2011 Supp.)) the following days are legal public holidays for District government employees covered by this chapter:
- (a) New Year's Day, January 1<sup>st</sup> of each year;
  - (b) Dr. Martin Luther King, Jr.'s Birthday, the third (3<sup>rd</sup>) Monday in January of each year;
  - (c) Washington's Birthday, the third (3<sup>rd</sup>) Monday in February of each year;
  - (d) Memorial Day, the last Monday in May of each year;
  - (e) Independence Day, July 4<sup>th</sup> of each year;
  - (f) Labor Day, the first (1<sup>st</sup>) Monday in September of each year;
  - (g) Columbus Day, the second (2<sup>nd</sup>) Monday in October of each year;
  - (h) Veterans Day, November 11<sup>th</sup> of each year;
  - (i) Thanksgiving Day, the fourth (4<sup>th</sup>) Thursday in November of each year;
  - (j) Christmas Day, December 25<sup>th</sup> of each year; and
  - (k) Beginning in the year 2007, District of Columbia Emancipation Day, April 16<sup>th</sup> of each year.
- 1220.2 Pursuant to section 1202 (c)(1)of the CMPA (D.C. Official Code § 1-612.02 (c)1)) (2006), January 20 of each year following the year in which a Presidential election is held, Inauguration Day, shall be a legal public holiday for all employees scheduled to work on that day. When January 20 of any such year falls on a Sunday, the next succeeding day selected for the public observance of the inauguration of the President shall be a legal public holiday for all employees scheduled to work on that day.
- 1220.3 The rules for determining holidays contained in section 1222 of this chapter shall not apply to Inauguration Day.
- 1220.4 In addition to the legal public holidays set forth in sections 1220.1 and 1220.2 of this section, the Mayor may designate other days or portions of a day as legal public holidays.
- 1220.5 There shall be no official observance of religious holidays except those that are also legal public holidays.
- 1220.6 An employee whose personal religious beliefs require him or her to abstain from working during certain periods of time shall be entitled to reasonable accommodation as provided in section 1206 of this chapter or, at his or her request, may be granted annual leave, compensatory time, or leave without pay, as appropriate.

**1221 ENTITLEMENT TO HOLIDAYS**

1221.1 Each full-time employee, and each part-time employee with a scheduled tour of duty, except student employees paid by stipend, shall be entitled to holidays as provided in section 1222 of this chapter.

## **1222 DETERMINING HOLIDAYS**

1222.1 Pursuant to section 1202 (b) of the CMPA (D.C. Official Code § 1-612.02 (b)) (2006), in-lieu-of holidays shall be determined as follows for purposes of pay and leave:

- (a) Whenever a legal public holiday falls on a workday in the basic workweek of Monday through Friday, that workday shall be the holiday;
- (b) Whenever a legal public holiday falls on a nonworkday of a basic workweek of Monday through Friday, the holiday shall be the Monday immediately following a legal public holiday occurring on Sunday, or the Friday immediately preceding a legal public holiday occurring on a Saturday;
- (c) When a legal public holiday falls on a nonworkday in a workweek that is other than Monday through Friday, the holiday shall be determined as follows:
  - (1) If the legal public holiday falls on the first or only nonworkday of the administrative workweek, the holiday shall be the day before the legal public holiday; and
  - (2) If the legal public holiday falls on the second or subsequent nonworkday of the administrative workweek, the holiday shall be the first scheduled workday following the legal public holiday.
- (d) For a part-time employee, whenever a legal public holiday falls on a workday within the employee's scheduled tour of duty, that shall be the holiday;
- (e) For a part-time employee, whenever a legal public holiday falls on a nonworkday for that employee, he or she shall not be entitled to a holiday;
- (f) When a legal public holiday falls on an employee's workday that covers two (2) calendar days, he or she shall be excused from work on the entire workday that begins on the calendar day of the legal public holiday; and
- (g) An employee who has two (2) regular tours of duty, both beginning on a holiday, shall be excused from work on the first tour of duty that begins on the holiday.

1222.2 The Director, D.C. Department of Human Resources, shall issue a holiday schedule annually. Nothing contained in this section shall be construed to alter any holiday schedule or "in-lieu-of" schedule issued by the Director, D.C. Department of Human Resources, prior to the effective date of these regulations.

## **1223 EFFECT OF HOLIDAYS**

1223.1 The occurrence of a legal public holiday shall not affect the designation of the basic

workweek.

- 1223.2 An employee who is excused from duty on a holiday shall be entitled to the same pay for that day as for a day on which an ordinary day's work is performed.
- 1223.3 An agency head may, within his or her discretion, include a holiday within the hours of duty or regular workweek of employees and require them to work on that day.
- 1223.4 An employee who is required to work on a holiday as specified in section 1223.3 of this section, but whose absence is approved by the agency, shall be charged sick leave, annual leave, or leave without pay, as appropriate.
- 1223.5 An employee who is required to work on a holiday as specified in section 1223.3 of this section, but who is inexcusably absent or refuses to work on a holiday, shall be charged with absence without leave (AWOL) for that period of absence.
- 1223.6 An employee under an alternative work schedule under section 1209 of this chapter, or a compressed work schedule under section 1210 of this chapter who performs work on a holiday shall be entitled to holiday premium pay as provided in section 1131 of Chapter 11 of these regulations.
- 1223.7 Except as provided in section 1223.8 of this section, an employee who is not required to work on a holiday shall not be charged annual leave, compensatory time, sick leave, or LWOP for that day. An employee on annual leave, sick leave, or compensatory time for a period that includes a holiday shall not be charged annual leave, sick leave, or compensatory time for that day.
- 1223.8 An employee in a nonpay status the last day of a regular tour of duty immediately prior to a holiday and the first day of a regular tour of duty immediately after the holiday shall not be entitled to have his or her nonpay status changed to a pay status for that holiday unless the employee works on that holiday.

## **1224 LEGAL PRIVATE HOLIDAY**

- 1224.1 Pursuant to section 1202a of the CMPA (D.C. Official Code § 1-612.02a) (2006), a legal private holiday is a day on which any paid leave or unpaid leave provided by this chapter may be granted.

## **1225 THRU 1226 – RESERVED**

## **1227 GENERAL PROVISIONS FOR ANNUAL AND SICK LEAVE**

- 1227.1 As provided in section 1203(a) of the CMPA (D.C. Official Code § 1-612.03 (a) (2006 Repl.)), an employee shall be entitled to earn both annual and sick leave as provided herein, except for the following:

- (a) An intermittent employee who does not have a scheduled tour of duty;



- (b) An elected official; or
- (c) A temporary employee appointed for less than ninety (90) days.

1227.2 The days of annual and sick leave provided by this chapter shall be days on which an employee would otherwise work and receive pay, but shall exclude holidays and nonworkdays established by statute or administrative order.

1227.3 Other than for the liquidation of advanced sick leave indebtedness as provided in section 1230.4 of this chapter, the retroactive substitution of annual leave, compensatory time, or leave without pay for sick leave shall not be authorized.

## **1228 ENTITLEMENT TO ACCRUE ANNUAL AND SICK LEAVE**

1228.1 A full-time employee:

- (a) May accrue leave only when employed for a full workweek; and
- (b) Shall be deemed employed for a full workweek if he or she is employed during the days within that week, exclusive of holidays and nonworkdays established by statute or administrative order, that fall within that workweek.

1228.2 A full-time employee who initially enters on duty on the first (1<sup>st</sup>) workday of a biweekly pay period shall accrue the full amount of leave to which he or she would be entitled for that biweekly pay period.

1228.3 A full-time employee who initially enters on duty after the first (1<sup>st</sup>) workday of a biweekly pay period, but not later than the first (1<sup>st</sup>) workday of the second (2<sup>nd</sup>) week of a biweekly pay period, shall accrue one-half (½) of the leave to which he or she would have been entitled for a full biweekly pay period.

1228.4 A full-time employee who initially enters on duty after the first (1<sup>st</sup>) workday of the second week of a biweekly pay period shall not be entitled to accrue leave for that biweekly pay period.

1228.5 A full-time employee who separates after the close of business on the last workday of a biweekly pay period shall accrue the full amount of leave to which he or she would be entitled for that biweekly pay period.

1228.6 A full-time employee who separates after the completion of one (1) workweek in a biweekly pay period, but prior to the close of business on the last day of a biweekly pay period, shall accrue one-half (½) of the leave to which he or she would have been entitled for a full biweekly pay period.

1228.7 A full-time employee who separates prior to the completion of the first week in a biweekly pay period shall not be entitled to accrue leave for that biweekly pay period.

1228.8 A full-time employee paid on other than a biweekly pay period basis earns leave on a pro-rata

basis for a full pay period.

- 1228.9 Except as provided in section 1228.10 of this section, a full-time employee shall earn leave during each full biweekly pay period while in a pay status or in a combination of pay status and nonpay status.
- 1228.10 Whenever the number of hours of nonpay status accrued by a full-time employee during a leave year equals the number of base pay hours eighty (80) in a biweekly pay period, the employee's accrued leave shall immediately be reduced by the amount of annual and sick leave accruals the employee earns during one (1) biweekly pay period.
- 1228.11 For the purpose of determining reduction of leave credits under this section when a full-time employee has one (1) or more breaks in service during the leave year, the agency shall include all hours in a nonpay status for each period of service during the leave year in which the leave accrued.
- 1228.12 When a reduction in leave credits results in a debit to a full-time employee's leave account at the end of a leave year, the debit shall be carried forward as a charge against the leave to be earned by the employee in the next leave year, unless the employee and the agency agree to a repayment as provided in section 1230.4 of this chapter.
- 1228.13 A part-time employee, unless otherwise excluded, shall be entitled to accrue annual and sick leave on a pro-rata basis.
- 1228.14 Hours in a pay status for which the employee would be entitled to overtime pay shall be disregarded in computing the leave earnings of a part-time employee.
- 1228.15 A part-time employee must serve under an established tour of duty for each of the two (2) administrative workweeks in each biweekly pay period in order to accrue leave.
- 1228.16 A part-time employee who completes a full biweekly pay period may carry over, from one pay period to the next, those hours of service in a pay status that do not equal the number necessary for a minimum leave accrual of one (1) hour, until sufficient service is rendered to total the hourly accrual; but if the employee changes to full-time employment status and has insufficient service credit to earn the minimum of one (1) hour, the fractional hours of service shall be lost because of the change from part-time to full-time status.

**1229 ANNUAL LEAVE, SICK LEAVE, LEAVE WITHOUT PAY, AND ABSENCE WITHOUT LEAVE—GENERAL**

- 1229.1 The minimum charge for annual leave, sick leave, leave without pay, and absence without leave shall be one (1) hour, and additional charges shall be in multiples thereof.
- 1229.2 Scheduled leave (annual, sick, or leave without pay) shall be leave that is requested, approved, and scheduled prior to the end of the workday immediately preceding the day of such leave.

**1230 REPAYMENT OF ADVANCED ANNUAL OR ADVANCED SICK LEAVE**

- 1230.1 Except as provided in section 1230.2 of this section, when an employee who is indebted for advanced leave is separated, the agency shall either:
- (a) Require a repayment in the amount paid to the employee for the period covering the

leave for which indebted; or

- (b) Deduct that amount from any lump-sum leave payment, accrued wages, severance pay, other compensation, or any combination thereof, due the employee.

1230.2 Repayment of advanced leave shall be forgiven when an employee:

- (a) Dies;
- (b) Retires for disability under the authority of Title XXIII of the CMPA (D.C. Official Code § 1-623.01 *et seq.*) (2006);
- (c) Resigns or is separated because of disability that prevents him or her from returning to duty or continuing in the service and is the basis of the separation as determined by the agency on acceptable medical evidence that is the kind of medical evidence customarily relied on to support such claims; or
- (d) Enters on active military duty with restoration rights under 38 U.S.C. §§ 2121 or 2024.

1230.3 Any indebtedness for advanced leave remaining after application of the provisions of section 1230.1 of this section shall be a debt owed to the District government.

1230.4 Advanced sick leave may be liquidated by subsequently earned sick leave, by a charge against annual leave, or by a repayment upon separation in accordance with section 1230.1 of this section.

1230.5 An employee may, with the consent of his or her employing agency, agree to repay the agency in cash, either by lump-sum payment or by payment schedule to be completed within twenty-four (24) months of the first (1<sup>st</sup>) payment, for advanced annual or sick leave. The amount of the repayment shall be calculated at the pay rate that is in effect at the time of the repayment.

1230.6 An employee shall be deemed to have been in a pay status for the period covered by a cash payment pursuant to section 1230.4 of this section.

1230.7 If an employee is subsequently reemployed, the leave “forgiven” under section 1230.2 of this section shall not be chargeable against subsequently earned leave.

1230.8 If an employee is subsequently reemployed and had advanced leave when previously separated that was not recovered under sections 1230.1 or 1230.3 of this section, such unrecovered advanced leave shall be charged against subsequently earned leave.

## **1231 TRANSFER AND RE-CREDIT OF ANNUAL AND SICK LEAVE**

1231.1 When an employee subject to this chapter transfers between agencies, the Office of the Chief Financial Officer shall certify the employee’s annual and sick leave accounts to the employing agency for credit or charge.

1231.2 Pursuant to section 1203 (k) of the CMPA (D.C. Official Code § 1-612.03 (k)) (2006), a federal government employee who is hired or appointed by the District government without a break in service of more than one (1) workday, and who did not receive a lump-sum payment for annual leave upon separation from the federal service, shall be credited with the annual leave balance to his or her account at the time of separation from the federal service.

1231.3 An employee who has received a lump-sum payment for annual leave upon separation from

- the federal service shall be credited with a zero (0) annual leave balance upon entry into District government service.
- 1231.4 Pursuant to section 1203 (k) of the CMPA (D.C. Official Code § 1-612.03 (k)) (2006), a federal government employee who is hired or appointed by the District government without a break in service shall be credited with the sick leave balance to his or her account at the time of separation from the federal service.
- 1231.5 Except as provided in section 1231.7 of this section, the annual and sick leave to the credit of an employee who transfers between agencies of the District government under different leave systems without a break in service shall be transferred to his or her credit in the employing agency on the same adjusted basis as provided in section 1231.6 of this section.
- 1231.6 Except as provided in section 1231.7 of this section, when annual leave or sick leave is credited from a leave system that accrues leave on a basis other than that prescribed by sections 1233.1 or 1233.2 of this chapter, an employee to whom this section applies shall be credited with five (5) hours of leave for each seven (7) hours of leave accumulated under the leave system from which credited, with fractional parts of an hour being rounded up to the next whole hour.
- 1231.7 Annual and sick leave to the credit of a uniformed member of the Firefighting Division of the Fire and Emergency Medical Services Department who transfers to another agency of the District government, or to a non-uniformed division of the Fire and Emergency Medical Services Department, shall be adjusted by dividing both the annual leave and the sick leave by one and two-tenths (1.2), with the results rounded up to the next whole hour.
- 1231.8 The employing agency shall have the primary responsibility for determining whether an employee is entitled to be credited with leave purportedly standing to an employee's credit when the employee's transfer or reemployment involves different leave systems and a re-credit is otherwise appropriate.
- 1231.9 Pursuant to section 1203 (i) of the CMPA (D.C. Official Code § 1-612.03 (i)) (2006), an individual who received a lump-sum payment for annual leave upon separation from District government service, and who is reemployed by the District government prior to the end of the period covered by the lump-sum payment, shall repay the District government an amount equal to the lump-sum payment for the time between the date of reemployment and the end of the period covered by the lump-sum payment, and shall be recredited with annual leave for that period.
- 1231.10 When an employee is reemployed in a position under a different leave system prior to the expiration of the period for which the lump-sum leave payment has been made and the unexpired period of leave covers a larger amount of leave than can be transferred to the different leave system, the employee shall be required only to make a repayment covering the amount of re-creditable annual leave.
- 1231.11 No repayment shall be required when an employee is reemployed under circumstances where he or she is not entitled to accrue leave.
- 1231.12 An employee subject to this chapter who transfers to a position under the District of Columbia Teachers' Leave Act shall be entitled to a lump-sum payment for unused annual leave.
- 1231.13 When an employee transfers to a position under a different leave system to which only a part of the employee's sick leave can be transferred, then so much of the employee's sick leave as was not transferred to the new leave system shall be recredited should the employee return to the leave system under which it was earned prior to the expiration of three (3) years.

- 1231.14 An employee who separates from District government service other than by retirement, shall have his or her sick leave account recredited, either on an hour-for-hour basis, or on an adjusted basis as provided in sections 1231.6 or 1231.7 of this section, as appropriate, if reemployed without a break in service of three (3) years or more.
- 1231.15 If official records specifying the amount of leave to be credited or recredited are not available, an estimate of the employee's leave account shall be acceptable when accompanied by an official statement that contains the basis for the estimate.
- 1231.16 An employee who earned leave under a statute previously in force shall be entitled to re-credit of that leave under that authority, if he or she is entitled to re-credit for it, on reentering the leave system under which it was earned; however, leave already forfeited shall not be revived.
- 1231.17 Pursuant to section 2343 of the CMPA (D.C. Official Code §1-623.43 (2006)), an employee who has used annual leave or sick leave as a result of an injury or illness, and whose injury or illness is later determined, as provided in Chapter 23 of these regulations, to be job-related, shall be entitled to repurchase so much of that annual leave, or sick leave, or both, as he or she shall desire, at the hourly rate in effect at the time it was used, and shall have that amount of annual leave, sick leave, or both recredited.
- 1231.18 There shall be no limitation on the amount of either annual leave or sick leave that can be repurchased under section 1231.17 of this section, but any annual leave repurchased shall be subject to the forfeiture provisions of section 1239 of this chapter, and may be considered to have been administrative error for purposes of restoration under section 1239 of this chapter.

## **1232 ACCRUAL OF ANNUAL LEAVE**

- 1232.1 Except as specified in subsection 1232.6 of this section, a full-time employee to whom this chapter applies shall earn annual leave as follows:
- (a) An employee with less than three (3) years of service shall earn four (4) hours for each full biweekly pay period;
  - (b) An employee with three (3) but less than fifteen (15) years of service shall earn six (6) hours for each full biweekly pay period, except that the accrual for the last full biweekly pay period in the leave year shall be ten (10) hours; and
  - (c) An employee with fifteen (15) or more years of service shall earn eight (8) hours for each full biweekly pay period.
- 1232.2 Except as provided in subsections 1232.5 and 1232.7 of this section, a part-time employee for whom there has been established in advance a regular tour of duty on one (1) or more days during each administrative workweek shall earn annual leave as follows:
- (a) An employee with fewer than three (3) years of service shall earn one (1) hour of annual leave for each twenty (20) hours in a pay status;
  - (b) An employee with three (3) but fewer than fifteen (15) years of service shall earn one (1) hour of annual leave for each thirteen (13) hours in a pay status; and

- (c) An employee with fifteen (15) years or more of service shall earn one (1) hour of annual leave for each ten (10) hours in a pay status.
- 1232.3 A change in the rate of accrual of annual leave shall take effect at the beginning of the pay period after the pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, in which the employee completed the prescribed period of service.
- 1232.4 When a full-time employee changes from the six-hour (6-hour) annual leave-earning category to the eight-hour (8-hour) category at the beginning of the last full biweekly pay period in the calendar year, his or her leave credit for that pay period shall not exceed eight (8) hours.
- 1232.5 A part-time employee entitled to earn annual leave shall not earn annual leave for any hours worked for which he or she is entitled to overtime compensation under Chapter 11 of these regulations.
- 1232.6 A person who has retired from either the District or federal government under the regular or early retirement provisions of the Civil Service Retirement System (CSRS) and who is employed by the District government as a full-time employee on or after February 26, 2008, after having retired, shall earn four (4) hours of annual leave for each full biweekly pay period for the first three (3) years of employment after the CSRS-retirement; and shall progress to six (6) and eight (8) hours of annual leave, respectively, as specified in subsection 1232.1(b) and (c) of this section.
- 1232.7 A person who has retired from either the District or federal government under the regular or early retirement provisions of the CSRS and who is employed by the District government as a part-time employee on or after February 26, 2008, after having retired, shall earn one (1) hour of annual leave for each twenty (20) hours in a pay status for the first three (3) years of employment after the CSRS-retirement; and shall progress to one (1) hour of annual leave for each thirteen (13) hours in a pay status and one (1) hour of annual leave for each ten (10) hours in a pay status, respectively, as specified in subsection 1232.2(b) and (c) of this section.
- 1232.8 For the purposes of this section and section 1234 of this chapter, the terms “full-time employee” and “part-time employee” shall include full-time and part-time temporary employees; provided that the employee is serving under a temporary appointment of more than ninety (90) days.
- 1233 ANNUAL LEAVE—DETERMINING CREDITABLE SERVICE**
- 1233.1 In determining years of creditable service for annual leave accrual, an employee shall be entitled to receive credit for the following service:
- (a) All service creditable under 5 U.S.C. § 8332 for the purpose of an annuity; and
- (b) Except for employees as described in subsections 1232.6 and 1232.7 of this chapter, all service creditable under the District retirement benefits program established pursuant to section 2605 of the CMPA (D.C. Official Code § 1-626.05 (2006 Repl.)).
- 1233.2 An employee who is a retired member of a uniformed service as defined by 5 U.S.C. § 3501 shall be entitled to credit for active military service only if his or her retirement was based on

one (1) of the two (2) following types of disabilities:

- (a) A disability resulting from injury or disease received in the line of duty as a direct result of armed conflict; or
- (b) A disability caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by 38 U.S.C. §§ 101 and 301.

1233.3 The determination of years of service may be made on the basis of an affidavit from the employee subject to verification by the personnel authority.

1233.4 District government service prior to October 1, 1987, that is under Social Security shall be creditable for annual leave accrual purposes, and shall be purchasable for credit toward retirement under 5 U.S.C. § 8332.

1233.5 Notwithstanding any other provision in this section or this chapter, years of service with the District or federal government of a person who has retired from either the District or federal government under the regular or early retirement provisions of the Civil Service Retirement System (CSRS) and who is employed or reemployed, as applicable, by the District government on or after February 26, 2008, after said retirement, shall not be considered as creditable service for annual leave accrual purposes.

#### **1234 ANNUAL LEAVE—QUALIFYING PERIOD**

1234.1 If a temporary appointment is for less than ninety (90) days, the employee shall not be entitled to earn annual leave.

1234.2 If a temporary appointment for less than ninety (90) days is extended for an additional ninety (90) days or longer without a break in service, or if there are successive temporary appointments without a break in service that aggregate ninety (90) days or longer, then the employee shall receive retroactive credit for leave earned from the date of appointment, and shall earn leave thereafter.

1234.3 Retroactive annual leave credited, or annual leave earned thereafter as specified in section 1234.2 of this section, shall not be substituted retroactively for either compensatory time or leave without pay taken during the period described in section 1234.1 of this section.

#### **1235 ANNUAL LEAVE—GRANTING**

1235.1 Annual leave may be used by an employee for any reason, but is intended primarily to be used for the following two (2) general purposes:

- (a) To allow the employee vacation periods of extended leave every year for rest and recreation; and
- (b) To provide periods of time off for personal and emergency purposes.

1235.2 Normally, annual leave shall be requested and approved in advance, preferably prior to the day on which the annual leave is to be used. Employees are required to obtain approval for

the use of annual leave by whichever method is formally established within his or her agency. Annual leave requested and approved in advance shall constitute "scheduled annual leave;" approved but not scheduled or requested in advance shall constitute "emergency annual leave."

1235.3 The annual leave provided by this chapter, including annual leave that has been advanced as provided in section 1237 of this chapter, may be granted at any time during the leave year in accordance with these regulations.

1235.4 An employee is entitled to his or her annual leave, and the taking of annual leave for the purposes set forth in subsection 1235.1 of this section should be encouraged, subject to scheduling approval by the agency head.

1235.5 An approved absence that would otherwise be properly chargeable to sick leave may be charged to annual leave, compensatory time, or leave without pay, if requested in advance by the employee and approved by the agency head.

## **1236 EMERGENCY ANNUAL LEAVE AND LEAVE RESTRICTION FOR ABUSE OF EMERGENCY ANNUAL LEAVE**

1236.1 "Emergency annual leave" should be granted in all cases of personal emergency, unless the supervisor has sound reason to believe that:

- (a) A legitimate emergency does not exist, therefore, the employee made the request for emergency annual leave in bad faith; or
- (b) The employee's presence on duty is essential to maintain minimum public services in the support or maintenance of public health, life, or property and the employee has been so notified.

1236.2 An employee on leave restriction shall inform his or her immediate supervisor or other supervisor within the chain of command of the employee, of his or her need to take emergency annual leave by contacting the immediate supervisor or other supervisor within the chain of command on the day of the absence. Supervisors and managers shall determine, and inform their subordinate employees in writing, whether notifying a co-worker, leaving a message on the supervisor's voicemail, or sending an electronic mail shall be deemed as "informing the supervisor of the need to take emergency annual leave" or if, in the alternative, employees shall be required to obtain approval by speaking (over the telephone) with the supervisor.

1236.3 An employee's immediate supervisor may restrict an employee from using annual leave whenever it is established by the preponderance of the evidence that the employee is engaging in a pattern or practice of abuse of annual leave, such as:

- (a) Requesting emergency annual leave in order to avoid certain work shifts or work assignments;
- (b) Requesting emergency annual leave with such frequency that it results in the



employee being unavailable immediately preceding or following the employee's two (2) consecutive days outside of the basic work week; or

- (c) Requesting emergency annual leave with such frequency that it results in the employee being absent part of the workday or an entire workday on a consistent and regular basis.

1236.4 Whenever a supervisor determines that an employee has engaged in the activities set forth in subsection 1236.3 of this section, the employee may be placed on leave restriction.

1236.5 An employee who has been placed on leave restriction shall obtain permission before taking any annual leave without prior approval by the employee's immediate supervisor or other supervisor within the chain of command of the employee.

1236.6 In order to satisfy the "obtain permission" requirement within subsection 1236.5 of this section, an employee who has been placed on leave restriction shall obtain approval to take emergency annual leave by speaking (either in person or over the telephone directly) with his or her immediate supervisor or other supervisor within the chain of command of the employee.

1236.7 An employee under leave restriction who takes emergency annual leave without receiving prior supervisory approval as specified in subsection 1236.6 of this section shall be placed in an "Absence Without Official Leave" (AWOL) status in accordance with section 1268 of this chapter; and where appropriate, may be subject to administrative action as applicable.

## **1237 ANNUAL LEAVE—ADVANCING**

1237.1 Agency heads or their subordinate supervisor designees are authorized to advance annual leave to eligible employees in advance of its accrual, in individual cases, up to the amount of annual leave expected to be earned during the balance of the current leave year or by the eligible employee's anticipated termination date, whichever is sooner.

1237.2 In no case shall annual leave be advanced on the basis of leave expected to be earned during the succeeding leave year.

1237.3 If the reason for an employee's request for advanced annual leave qualifies for family or medical leave under the District of Columbia Family and Medical Leave Act of 1990 (D.C. FMLA), effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code §§ 32-501, *et seq.* (2010 Repl. & 2011 Supp.)), and provided that the employee meets the eligibility requirements of the D.C. FMLA, any advanced annual leave granted shall count towards the sixteen (16)-week maximum under the D.C. FMLA.

## **1238 ANNUAL LEAVE—MAXIMUM ACCUMULATION**

1238.1 Pursuant to section 1238.3 of this section, annual leave that is not used by an employee shall accumulate for use in succeeding years, except that annual leave in excess of two hundred forty (240) hours at the beginning of the first full biweekly pay period of the calendar year, or the corresponding period for an employee who is not paid on the basis of biweekly pay

periods, shall be forfeited as provided in section 1238.2 of this section.

1238.2 The beginning of the first biweekly pay period in the calendar year shall be the point at which an employee's accumulated annual leave balance is fixed, and when a determination shall be made that annual leave in excess of the maximum amount allowable under section 1238.1 of this section, as appropriate, shall be forfeited.

1238.3 Annual leave in excess of the amount allowable under this section that was accumulated under an earlier statute shall remain to the credit of the employee until used. If an employee with such credit uses more annual leave in a leave year than he or she earns:

- (a) The balance carried forward shall become the new leave ceiling if it is still above the maximum accumulation allowable under section 1238.1 of this section; or
- (b) The new leave ceiling shall be two hundred forty (240) hours if the balance carried forward is equal to or less than two hundred forty (240) hours.

### **1239 ANNUAL LEAVE—RESTORATION**

1239.1 As provided in section 1203 (h)(2) of the CMPA (D.C. Official Code § 1-612.03 (h)(2) (2006 Repl.)), annual leave may be restored when:

- (a) An administrative error causes a loss of annual leave otherwise accruable after June 30, 1960;
- (b) Exigencies of the public business, deemed by the agency head to be of major importance, causes denial and forfeiture of annual leave previously scheduled at least three (3) biweekly pay periods prior to the end of the leave year; or
- (c) An employee becomes sick while on scheduled annual leave and receives approval to substitute sick leave for the scheduled annual leave. The employee must have had sick leave available at the time of the request for scheduled annual leave.

1239.2 If the annual leave restored under subsection 1239.1 of this section causes the employee's accumulated annual leave balance to exceed the maximum allowable accumulation under subsection 1238.1 of this chapter such restored leave shall be credited to a separate leave account. Such restored leave that exceeds the maximum allowable accumulation shall be forfeited unless scheduled and used not later than two (2) years after one (1) of the following dates:

- (a) The date of restoration of the annual leave forfeited because of administrative error;
- (b) The date fixed by the agency head as the termination date of the exigency of the public business that resulted in forfeiture of the annual leave; or
- (c) The date the employee is determined to be recovered and able to return to duty if the leave was forfeited because of sickness.

1239.3 Restored leave for separated employees:

- (a) Restored leave for separated employees shall be included in a lump-sum payment if unused and still available upon the date of separation; and
- (b) Pursuant to section 1203(h)(2)(B) of the CMPA (D.C. Official Code § 1-612.03 (h)(2)(B)), in the event of an administrative error, a separated employee entitled to restored annual leave, otherwise accruable after June 30, 1960, shall be entitled to credit and liquidation by lump-sum payment only if the employee files a claim for restored leave within three (3) years of the date the error was discovered.

1239.4 The agency head shall provide notification to the appropriate authority to effect the restoration of annual leave under this section.

#### **1240 PAYMENT FOR ANNUAL LEAVE**

1240.1 An employee who accepts a position within the District government under a different leave system without a break in service, may elect either a lump-sum payment for any unused annual leave or have such leave retained for re-crediting purposes if he or she returns to a position covered by the provisions of these regulations.

1240.2 An employee who uses annual leave credited because of administrative error may elect to repay the amount received for such leave by lump-sum or installment payments, or to have such leave carried forward as a charge against later accruing annual leave, or to apply for a waiver of the overpayment under Chapter 29 of these regulations.

1240.3 An employee who is separated from District government service or who enters into military service shall be entitled to receive a lump-sum payment for annual leave to which entitled.

1240.4 The lump-sum payment pursuant to subsection 1240.3 of this section shall equal the pay that the person would have received had he or she remained in the employ of the District government.

1240.5 The period of leave used for calculating the amount of the lump-sum payment shall not be extended due to any holiday occurring after the separation.

#### **1241 ACCRUAL OF SICK LEAVE**

1241.1 A full-time employee to whom this chapter applies shall accrue sick leave on the basis of four (4) hours for each full biweekly pay period.

1241.2 Sick leave shall be credited at the beginning of each full or partial (one-half (½)) pay period for use during or after that pay period.

1241.3 Except as provided in section 1241.5 of this section, a part-time employee shall earn one (1) hour of sick leave for each twenty (20) hours in a pay status.

1241.4 Sick leave provided for in this section that is not used by an employee during the year in which it accrues shall accumulate and be available for use in succeeding years. There shall be no limitation on the amount of sick leave an employee may accumulate.

1241.5 A part-time employee entitled to earn sick leave as provided in section 1241.3 of this section shall not earn sick leave for any hours worked for which he or she is entitled to overtime compensation under Chapter 11 of these regulations.

## **1242 SICK LEAVE—GRANTING**

1242.1 An agency head shall grant sick leave to an employee under any of the following circumstances:

- (a) When the employee requires personal medical, dental, or optical examination or treatment;
- (b) When the employee is incapacitated for the performance of his or her duties by physical or mental illness, injury, pregnancy, or childbirth;
- (c) When the employee would jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease (as determined by appropriate health authorities or by a health care provider);
- (d) When the employee's absence is required to provide care for a family member who is incapacitated by a medical or mental condition or to attend to a family member receiving medical, dental, or optical examination or treatment;
- (e) When the employee's absence is required to provide care for a family member with a serious health condition;
- (f) Because of the birth, or the placement for adoption, of a son or daughter of the employee, and in order to care for such son or daughter; or
- (g) When the employee is absent because of the death of a family member, provided that such absence shall not exceed three (3) workdays (twenty-four (24) hours), and that the employee provides evidence that is acceptable to the agency.

1242.2 When any of the circumstances set forth in section 1242.1 of this section occurs within a period of annual leave, an agency head may, at the employee's request, convert annual leave to sick leave.

1242.3 Annual leave may not be substituted for sick leave that has been applied for and granted.

1242.4 An employee shall file a written application for sick leave within such time limits as the agency head may prescribe.

1242.5 An employee shall request sick leave in advance for a pre-scheduled appointment for medical, dental, or optical examination or treatment.

1242.6 An agency head may grant sick leave only when supported by a medical certificate or appropriate document signed by the employee.

- 1242.7 For an absence in excess of three (3) workdays, or for a lesser period when determined necessary by an agency, the agency may require a medical certificate, or other administratively acceptable evidence as to the reason for the absence.
- 1243 EMERGENCY SICK LEAVE AND LEAVE RESTRICTION FOR ABUSE OF SICK LEAVE**
- 1243.1 Sick leave that is approved (granted) by an employee’s immediate supervisor even though the leave was not scheduled in advance shall be considered “emergency sick leave.”
- 1243.2 An employee on leave restriction shall inform his or her immediate supervisor or other supervisor within the chain of command of the employee, of his or her need to take emergency sick leave by contacting the immediate supervisor or other supervisor within the chain of command on the day of the absence. Supervisors and managers shall determine, and inform their subordinate employees in writing, whether notifying a co-worker, leaving a message on the supervisor’s voicemail, or sending an electronic mail shall be deemed as “informing the supervisor of the need to take emergency sick leave” or if, in the alternative, employees shall be required to obtain approval by speaking (over the telephone) with the supervisor.
- 1243.3 As stated in subsection 1242.5 of this chapter, sick leave for pre-scheduled medical, dental, or optical examinations or treatments shall be requested in advance. In all other situations, the employee shall notify his or her immediate supervisor of the need to take emergency sick leave as early as practicable on the first (1<sup>st</sup>) day of absence.
- 1243.4 An employee’s immediate supervisor may restrict an employee from using sick leave whenever it is established by the preponderance that the employee is engaging in a pattern or practice of abuse of sick leave, such as:
- (a) Requesting emergency sick leave in order to avoid certain work shifts or work assignments;
  - (b) Requesting emergency sick leave with such frequency that it results in the employee being unavailable immediately preceding or following the employee’s consecutive two (2) days outside of the basic workweek; or
  - (c) Requesting emergency sick leave with such frequency that it results in the employee being absent part of the workday or an entire workday on a consistent and regular basis.
- 1243.5 Whenever a supervisor determines that an employee has engaged in the activities set forth in subsection 1243.4 of this section, the employee may be placed on leave restriction.
- 1243.6 An employee who has been placed on leave restriction shall obtain permission before taking any sick leave without prior approval by the employee’s immediate supervisor or other supervisor within the chain of command of the employee.
- 1243.7 In order to satisfy the “obtain permission” requirement within subsection 1243.6 of this

section, an employee who has been placed on leave restriction shall obtain approval to take emergency sick leave by speaking (either in person or over the telephone directly) with his or her immediate supervisor or other supervisor within the employee's organizational unit.

1243.8 An employee under leave restriction who takes emergency sick leave without receiving prior supervisor approval as specified in subsection 1243.7 of this section, shall be placed in an "Absence Without Official Leave" (AWOL) status in accordance with section 1268 of this chapter; may be ordered to obtain a medical examination in accordance with chapter 20 of these regulations; and where appropriate, may be subject to administrative action as applicable.

#### **1244 SICK LEAVE—ADVANCING**

1244.1 Agency heads or their subordinate supervisor designees are authorized to advance to an employee a maximum of two hundred forty (240) hours of sick leave in cases of serious disability or ailments, except:

- (a) When the agency head (or designee) has reason to believe that the employee may not be able to repay the advanced leave;
- (b) When an employee is serving on an appointment with a not-to-exceed date (such as, a term appointment), in which case sick leave may be advanced only up to the total sick leave the employee would earn during the remainder of the time-limited appointment; or
- (c) If the reason for an employee's request for advanced sick leave would qualify for leave under the D.C. FMLA, any advanced sick leave authorized shall count towards the sixteen (16)-week maximum under the D.C. FMLA.

1244.2 All accrued and accumulated sick leave must be exhausted before the advanced leave is credited to the employee.

#### **1245 FLSA COMPENSATORY TIME—ACCRUING**

1245.1 Compensatory time is an authorized absence from official duty in lieu of payment of authorized overtime as provided in Chapter 11 of these regulations.

1245.2 Compensatory time shall be accrued in fifteen-minute (15-minute) increments. An FLSA non exempt employee shall be limited to the following amounts of compensatory time:

- (a) A maximum of four hundred eighty (480) hours for employees occupying public safety, emergency response, and seasonal-work positions; and
- (b) A maximum of two hundred forty (240) hours for all other employees.

#### **1246 FLSA COMPENSATORY TIME—GRANTING**

1246.1 An employee to whom the agency head would be willing to grant annual leave, including

annual leave in lieu of sick leave as provided in section 1235 of this chapter, sick leave as provided in section 1244 of this chapter, or leave without pay as provided in section 1267 of this chapter, may be granted, at the employee's request, compensatory time in lieu of annual leave, sick leave, or leave without pay.

1246.2 To the maximum extent practicable, compensatory time should be taken within three (3) months after it is earned.

1246.3 Compensatory time shall be granted only in one-hour (1-hour) increments, except that a fractional part of an hour may be granted when it is used in conjunction with the last remaining full hour accrued.

#### **1247 PAYMENT FOR FLSA COMPENSATORY TIME**

1247.1 An employee shall be given a lump-sum payment for any FLSA compensatory time in his or her account at the time of separation from District government service, regardless of the nature of the separation.

#### **1248 EXEMPT TIME OFF**

1248.1 Exempt time off may be authorized as provided in section 1139 of Chapter 11 of these regulations.

1248.2 An employee to whom the agency would be willing to grant annual leave, including annual leave in lieu of sick leave, as provided in section 1236 of this chapter, sick leave as provided in section 1243 of this chapter, or leave without pay as provided in section 1267 of this chapter, may be granted, at the employee's request, exempt time off in lieu of annual leave, sick leave, or leave without pay.

#### **1249 – RESERVED**

#### **1250 ANNUAL LEAVE BANK—GENERAL**

1250.1 Sections 1250 through 1258 of this chapter are promulgated to implement annual leave bank provisions in sections 1205 through 1211 of the CMPA (D.C. Official Code §§ 1-612.05 through 1-612.11 (2006 Repl.)).

1250.2 The Annual Leave Bank Program is applicable to all District government employees who are entitled to accrue annual leave pursuant to section 1203 of the CMPA (D.C. Official Code § 1-612.03 (2006 Repl.)).

#### **1251 ESTABLISHING AND OPERATING ANNUAL LEAVE BANKS**

1251.1 Each personnel authority shall:

- (a) Develop written policies and procedures in accordance with these regulations to establish and administer an annual leave bank for employees under its jurisdiction for the purpose of accumulating annual leave donated by employees of that personnel authority for the use of leave bank members of that personnel authority who need such leave because of a medical emergency;

- (b) Establish and begin operating an annual leave bank for employees under its jurisdiction;
- (c) Review and approve or disapprove each employee application to become a leave donor under § 1252 and a leave recipient under § 1253; and inform the employee and the employee's agency of the approval or disapproval of the application;
- (d) Monitor the status of each leave recipient's medical emergency;
- (e) Maintain, on a leave year basis, the records required by § 1258 of these rules.

1251.2 Each agency of the personnel authority shall insure that the automated annual leave account balance of each employee who donates annual leave under the provisions of § 1252 of these rules is reduced by the number of annual leave hours donated to the annual leave bank and that the leave donor's time and attendance report also reflects the reduction.

1251.3 Each agency of the personnel authority shall insure that the automated annual leave account balance of each employee who is a leave recipient under the provisions of § 1253 of these rules is increased by the number of annual leave hours received from the annual leave bank and that the leave recipient's time and attendance report also reflects the receipt of annual leave bank hours.

## **1252 APPLICATION TO BECOME A LEAVE DONOR AND LEAVE BANK MEMBER**

1252.1 An employee may make voluntary written application to the annual leave bank established by his or her personnel authority to become a leave donor at any time during the leave year subject to the limitations provided in § 1252.3. The application shall specify the number of hours of annual leave to be donated and any other information the personnel authority may deem necessary.

1252.2 The value of the leave donated by a leave donor shall be an amount equal to the donor's hourly rate of basic pay multiplied by the number of hours of annual leave donated.

1252.3 A leave donor may not donate more than a total of one-half ( $\frac{1}{2}$ ) of the amount of annual leave that the leave donor would be entitled to accrue during the leave year in which the donation is made, except that a leave donor may donate restored annual leave without limitation.

1252.4 The total amount of annual leave to be donated by a leave donor must be available in the leave account of the leave donor at the time he or she makes application to donate such annual leave; and shall be deducted from the leave donor's leave account effective on the first full pay period following approval of the application by the personnel authority.

1252.5 Once donated, annual leave shall not be recredited to the leave donor.

1252.6 A leave donor shall become a leave bank member of the leave bank established by his or her personnel authority for any leave year in which he or she donates at least four (4) hours of annual leave to that leave bank.



**1253 APPLICATION TO BECOME A LEAVE RECIPIENT**

- 1253.1 A leave bank member may make written application to his or her personnel authority to become a leave recipient.
- 1253.2 If a leave bank member is not capable of making application on his or her own behalf, another employee of the personnel authority may make written application on the employee's behalf.
- 1253.3 An application to become a leave recipient shall be notarized.
- 1253.4 An application to become a leave recipient shall be accompanied by the following information concerning the potential leave recipient:
- (a) The leave bank member's name, position title, grade and step;
  - (b) The reason(s) the leave is needed, including a brief description of the nature, severity, anticipated duration, and if it is a recurring medical emergency, the approximate frequency of the medical emergency;
  - (c) Certification from one or more physicians, or other appropriate experts, with respect to the medical emergency; and
  - (d) Any additional information that may be required by the personnel authority.
- 1253.5 Any expense incurred in obtaining the medical certification required by § 1253.4(c) shall be the responsibility of the potential leave recipient.

**1254 APPROVAL OF APPLICATION TO BECOME A LEAVE RECIPIENT**

- 1254.1 Each personnel authority shall review the applications to become a leave recipient under procedures developed by that personnel authority for the purpose of determining whether the employee is a leave bank member who is or has been affected by a medical emergency as defined in § 1299.
- 1254.2 Before approving an application to become a leave recipient, the personnel authority shall determine that:
- (a) The request to become a leave recipient has been necessitated by a medical emergency;
  - (b) The absence from duty because of the medical emergency is, or is expected to be, at least ten (10) workdays;
  - (c) The potential leave recipient has previously donated a minimum of four (4) hours of annual leave to the annual leave bank in the leave year in which the employee submits the application to become a leave recipient;
  - (d) The potential leave recipient has made, and final agency action has been taken on, application(s) for the maximum amount of advanced leave, either sick leave or annual leave as appropriate, available to him or her; and

- (e) The potential leave recipient does not possess paid leave, including compensatory time and personal leave, to cover the expected period of absence from work.

- 1254.3 In making a determination as to whether a medical emergency is likely to result in a substantial loss of income, the personnel authority shall not consider factors other than whether the absence from duty because of the medical emergency will be at least ten (10) workdays and, as a result of such absence the employee's pay on a biweekly basis will be reduced by more than fifty percent (50%) of his or her biweekly rate of basic pay.
- 1254.4 The fact that a potential leave recipient's application for advanced leave may have been denied shall not be the sole basis for denying an application to become a leave recipient.
- 1254.5 The personnel authority shall act upon applications to become a leave recipient in the order in which they are received.
- 1254.6 The personnel authority shall notify an applicant in writing within fifteen (15) workdays of receipt of the application of the action taken on his or her application. If the application is not approved, the notification shall include the reason(s) for the disapproval.

## **1255 CREDITING ANNUAL LEAVE BANK HOURS**

- 1255.1 Upon approval of an application to become a leave recipient, annual leave bank hours shall be credited to the leave recipient effective the first pay period during which the employee suffered a substantial loss of income.
- 1255.2 Annual leave bank hours shall not be used to liquidate any indebtedness for any period of advanced leave.
- 1255.3 Annual leave bank hours shall not be credited to a leave recipient in amounts greater than necessary to provide the employee, when combined with any accrued leave, his or her biweekly basic pay.
- 1255.4 The value of the annual leave received by a leave recipient from the annual leave bank shall be in an amount equal to the recipient's hourly rate of basic pay multiplied by the number of hours of annual leave received.
- 1255.5 When a withdrawal is approved, the personnel authority shall reduce its annual leave bank by the dollar value corresponding to the annual leave credited to the leave recipient.
- 1255.6 When there are insufficient funds in the annual leave bank to fulfill an applicant's request, the personnel authority may only approve an amount that does not cause the annual leave bank to exceed its available balance.
- 1255.7 When leave recipients cannot be granted the full amount of annual leave requested because of insufficient leave bank balances, and additional hours are donated at a later date, the personnel authority shall first reevaluate the request(s) of the leave recipient(s) who did not receive the full amount of annual leave requested prior to acting on subsequently received applications.

1255.8 Annual leave shall not be borrowed, contributed or otherwise transferred between the annual leave banks of the various District government personnel authorities nor between District government, Federal Government or any other leave banks.

**1256 USE OF LEAVE WITHDRAWN FROM A LEAVE BANK**

1256.1 A leave recipient may use leave withdrawn from a leave bank only for the specific medical emergency for which the application to become a leave recipient was approved.

1256.2 A leave recipient shall continue to accrue annual leave and sick leave while using leave withdrawn from a leave bank.

1256.3 During each biweekly pay period a leave recipient is affected by a medical emergency, he or she shall use any accrued annual leave (and sick leave, if applicable) before using annual leave withdrawn from a leave bank.

**1257 TERMINATION OF MEDICAL EMERGENCIES**

1257.1 The medical emergency affecting a leave recipient shall terminate when:

- (a) The leave recipient's employment is terminated; or
- (b) The leave recipient is no longer affected by the medical emergency.

1257.2 Each personnel authority shall ensure that any annual leave withdrawn from the leave bank and not used before the termination of the leave recipient's medical emergency is returned to the leave bank.

1257.3 Annual leave that is returned to a leave bank shall be credited in an amount equal to the leave recipient's hourly rate of basic pay multiplied by the number of hours of annual leave not used.

**1258 RECORDS AND REPORTS**

1258.1 Each personnel authority shall maintain the following records on a leave year basis:

- (a) The name, grade, step and scheduled rate of basic pay of each leave donor, the total number of hours of annual leave he or she donated to the leave bank and the corresponding dollar value of the leave donated;
- (b) The number of applications approved and disapproved for medical emergencies affecting employees;
- (c) The number of applications approved and disapproved for medical emergencies affecting an employee's family members; and
- (d) The name, grade, step and scheduled rate of basic pay of each leave recipient, the total number of hours of annual leave he or she received from the leave bank and the corresponding dollar value of the leave received;

1258.2 Each personnel authority shall maintain for each leave year quarter, an accounting of the total hours and corresponding dollar value of employee annual leave donations to and withdrawals from its Annual Leave Bank, and shall report such accounting to the Director of the D.C. Department of Human Resources (DCHR) within thirty (30) calendar days following the end of each leave year quarter.

1258.3 The DCHR shall maintain for each leave year quarter, an accounting of the total hours and corresponding dollar value of employee annual leave donations to and withdrawals from the Annual Leave Bank for employees in subordinate agencies.

1258.4 The Director of the DCHR shall review and compile the accounting reports required by subsection 1258.2 of this section and provide a written report to the Mayor within sixty (60) calendar days following the end of each leave year quarter.

**1259            EXCUSED ABSENCE IN CONNECTION WITH SERVING AS A BONE MARROW OR ORGAN DONOR**

1259.1 An employee of the District government is entitled to up to seven (7) workdays of excused absence in a calendar year, without loss or reduction in pay, leave, or credit for time of service, to serve as a bone marrow donor.

1259.2 An employee of the District government is entitled to up to thirty (30) workdays of excused absence in a calendar year, without loss or reduction in pay, leave, or credit for time of service, to serve as an organ donor.

1259.3 The workdays prescribed in §§ 1259.1 and 1259.2 shall be converted to hours.

1259.4 The provisions in §§ 1259.1 and 1259.2 shall only apply if the employee is a volunteer donor.

1259.5 Each personnel authority shall develop written procedures in accordance with this section.

**1260            ABSENCE FOR MATERNITY REASONS**

1260.1 The granting of approved absence for maternity reasons may be by a combination of one (1) or more of the following:

- (a) Sick leave;
- (b) Annual leave;
- (c) Compensatory time;
- (d) Exempt time off; or
- (e) Leave without pay.

1260.2 Except as provided by the D.C. FMLA, authorizing leave without pay for maternity reasons shall be a matter of administrative discretion on the part of each agency head.

- 1260.3 Leave without pay normally shall be granted only at the request of the employee.
- 1260.4 The agency head shall ensure continued employment in the employee's position or a position of like seniority, status, and pay, to an employee who wishes to return to work following delivery and confinement, unless termination is otherwise required by expiration of appointment, by reduction in force, for cause, or for similar reasons unrelated to the maternity absence.
- 1260.5 Agencies shall apply the same leave policies, regulations, and procedures as are applicable to requests for leave generally.
- 1260.6 Childbirth or complications of pregnancy shall be deemed to be temporary disabilities and shall be treated for leave purposes in the same manner as any other physical condition that incapacitates the employee for the performance of duty.
- 1260.7 Periods of absence related to pregnancy and confinement that are not medically certified as due to incapacitation for the performance of duty shall not be charged to sick leave; they shall be charged to annual leave, compensatory time, or to leave without pay if requested by the employee and approved by the leave approving official.
- 1261 FUNERAL LEAVE**
- 1261.1 In accordance with section 1203 (n) of the CMPA (D.C. Official Code § 1-612.03 (n)) (2006), an employee shall be entitled to not more than one (1) day of authorized absence without loss of or reduction in pay, or leave to which otherwise entitled, or credit for time or service, to make arrangements for, or attend the funeral of, or memorial service for, an immediate relative.
- 1261.2 Unless the mission of the agency would be seriously impaired, an agency shall grant an employee's request for annual leave, sick leave, exempt time off or compensatory time up to three (3) days upon the death of an immediate relative.
- 1261.3 An employee shall be entitled to not more than three (3) days of authorized absence (without loss of, or reduction in, pay, leave to which otherwise entitled, or credit for time or service) to make arrangements for, or attend the funeral of, or memorial service for, an immediate relative who died as a result of wounds, disease, or injury incurred while serving as a member of the armed forces, but only if such wounds, disease, or injury were incurred while serving in a combat zone.
- 1261.4 The days requested for funeral leave need not be consecutive, but if they are not consecutive, the employee shall furnish the approving authority satisfactory reasons justifying the granting of funeral leave for nonconsecutive days.
- 1261.5 An agency may grant funeral leave only from a prescribed tour of duty, including regularly scheduled overtime, from a period during which, except for absence on funeral leave, the employee would have worked.

**1262 MILITARY LEAVE**

1262.1 For the purposes of this section, the following terms have the meaning ascribed:

**Reserve component of the Armed Forces** – the Army National Guard of the United States; the Army Reserve; the Naval Reserve; the Marine Corps Reserve; the Air National Guard of the United States; the Air Force Reserve; or the Coast Guard Reserve.

**Military leave** – authorized absence without loss of or reduction in pay, leave, or credit for time or service, for the performance of military service as provided in this section. Military leave shall be distinguished from military furlough, which is a period of extended absence without pay while on extended active duty for general military service.

1262.2 An employee serving in a permanent appointment, temporary appointment pending establishment of a register (TAPER), term appointment, or indefinite appointment, who is a member of a reserve component of the Armed Forces, shall be entitled to military leave for each day, but no more than fifteen (15) calendar days in any one (1) calendar year in which he or she is on active duty, inactive-duty training under 37 U.S.C. § 101, funeral honors duty under 10 U.S.C. § 12503 and 32 U.S.C. § 115, or engaged in field or coast defense training under 32 U.S.C. §§ 502 through 505.

1262.3 An employee serving in a permanent appointment, temporary appointment pending establishment of a register (TAPER), term appointment, or indefinite appointment, who is a member of a reserve component of the Armed Forces, who performs full-time service for the purpose of providing military aid to enforce the law or in support of a contingency operation as defined in 10 U.S.C. § 101 (a)(13), shall be entitled to military leave, for not to exceed twenty-two (22) workdays in a calendar year, for either of the following:

- (a) Federal service under 10 U.S.C. §§ 331, through 333, or other provision of law, as applicable; or
- (b) Full-time military service for his or her state, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States.

1262.4 The pay due an employee who is granted military leave under section 1262.3 of this section shall be subject to the following:

- (a) The pay due the employee shall be reduced by any amount (other than travel, transportation, or per diem allowance) received by the employee for such military service as a member of a reserve component of the Armed Forces;
- (b) The receipt of military pay shall not only reduce the employee's entitlement to civilian pay as provided in section 1262.4 (a) of this section, but shall also reduce his or her required contribution to the Civil Service Retirement Fund, if applicable, in the same manner as nonpay status reduces such contribution; and
- (c) Civilian pay shall be reduced only by the amount that the employee receives for military service performed on a workday, and not by any amount that the employee might receive for military service performed on a nonworkday.

- 1262.5 When the D.C. National Guard is ordered to duty to perform the kind of services for which military leave is provided under section 1262.3 of this section, the military leave must be charged to the leave specified therein and an appropriate adjustment made in civilian pay as provided in section 1262.4 of this section.
- 1262.6 An employee serving in a permanent appointment, temporary appointment pending establishment of a register (TAPER), term appointment, or indefinite appointment, who is a member of the D.C. National Guard, shall be entitled to unlimited military leave without loss in pay for each day of any parade or encampment that the D.C. National Guard, or any portion thereof, is ordered to perform under title 49 of the D.C. Official Code by the Commanding General, but does not include time spent at weekly drills and meetings.
- 1262.7 An employee with a scheduled tour of duty shall be entitled to military leave as provided in this section.
- 1262.8 Military leave shall be granted only when competent orders are presented to the appropriate agency official(s).
- 1262.9 Military leave may be taken intermittently, a day at a time, or as otherwise directed under orders issued by competent military authority; provided, however, that the maximum amounts authorized are not exceeded.
- 1262.10 It shall be a prerequisite to entitlement to military leave that the employee was in a pay status either immediately prior to the beginning of the period of military service, or returned to a pay status immediately afterwards.
- 1262.11 An employee shall not be eligible for military leave for the following types of service:
- (a) Summer training as members of Reserve Officers Training Corps, when employees shall be carried in leave-without-pay status;
  - (b) Temporary Coast Guard Reserve;
  - (c) Participation in parades by members of the National Guard of any jurisdiction except the D.C. National Guard as provided in section 1262.6 of this section;
  - (d) Training with a state defense organization or a state military organization that is not a part of the National Guard, or any other organization created by the state in the absence of the state National Guard during an emergency;
  - (e) Weekly drills and meetings as a member of any reserve component of the Armed Forces, including the D.C. National Guard;
  - (f) Civil Air Patrol (established as a civilian auxiliary of the United States Air Force pursuant to An Act To establish Civil Air Patrol as a civilian auxiliary of the United States Air Force and to authorize the Secretary of the Air Force to extend aid to Civil Air Patrol in the fulfillment of its objectives, and for other purposes, approved May 26, 1948, Pub. L. 557, 62 Stat. 274);

- (g) Time taken on a workday to travel to the place where the training is to begin unless military training orders encompass the period of travel time required;
- (h) Active duty as a commissioned officer in the Reserve Corps of the U.S. Public Health Service; or
- (i) Active duty with a state National Guard unit when ordered to duty by state authority, except when called for duty as specified in section 1262.3 (b) of this section.

1262.12 An employee who is a member of one of the reserve components of the Armed Forces and who is ordered into the active military service of the United States with the pay and allowances of his or her grade, may not, during the periods of such service, be employed in an active civilian capacity under the District government and receive pay therefore in the absence of specific statutory authority.

1262.13 Military leave shall be granted under section 1262.2 of this section subject to the following conditions:

- (a) An employee may be carried in a military leave status for fifteen (15) calendar days, provided such leave has not been used previously during the current year;
- (b) Military leave shall be limited to fifteen (15) calendar days in a calendar year, regardless of the number of training periods in the calendar year;
- (c) Nonworkdays falling within a period of absence on military training duty shall be charged against the fifteen (15) days of military leave allowed during the year; however, nonworkdays occurring at the beginning or end of the training period shall not be charged;
- (d) An employee shall not be granted more than fifteen (15) days of military leave for any one (1) period of active duty, regardless of whether that period is wholly within one (1) calendar year, or extends over more than one (1) calendar year, and regardless of whether more than one (1) set of orders is involved;
- (e) There is no requirement that the first fifteen (15) days of a longer period of active duty be considered as the period for which military leave is to be granted; if circumstances in any particular case warrant it, any other fifteen-day (15-day) period may be designated as the period for which military leave shall be granted, so long as the intent of the statute is otherwise observed; and
- (f) When an employee who has been granted the maximum of fifteen (15) days allowed during any calendar year is subsequently ordered to a second (2<sup>nd</sup>) period of training duty, and the later period extends into the next calendar year, the employee may be granted military leave commencing on the first day of the new calendar year, provided the employee was in a duty or pay status when he or she entered the second (2<sup>nd</sup>) period of training duty.



- 1262.14 If a physical examination is required in connection with military leave:
- (a) The time required for such examination shall be counted as part of the military leave, if it does not cause the total period of absence to exceed the maximum number of days allowed and
  - (b) If the physical examination cannot be taken within the maximum period of time allowed, the required additional absence shall be charged to sick leave, annual leave, compensatory time, or leave without pay, as appropriate.
- 1262.15 An employee who is a member of a reserve component of the Armed Forces who is called for a period of military service in excess of the maximum number of days allowed for military leave may use annual leave, compensatory time, or leave without pay for the period of absence from duty.
- 1262.16 A member of a reserve component of the Armed Forces may also be carried in an annual leave status to the extent of annual leave accrued during the period of active military service.
- 1262.17 When an employee, while on annual leave before a furlough-without-pay occurring prior to separation by reduction in force, is called to military training duty, military leave shall be regarded as interrupting his or her annual leave status so as to permit him or her to revert to an annual leave status at the termination of the military leave before the previously fixed reduction-in-force termination date.
- 1262.18 An employee who is scheduled to work on an evening or weekend, and who is simultaneously required to be absent from duty to participate in evening or weekend drills or meetings with his or her reserve component unit, and for whom a schedule adjustment, as provided in section 1204.2 (h) of this chapter, cannot reasonably be made, shall be excused from duty, but the absence shall be charged to annual leave, compensatory time, or leave without pay, as appropriate.

### **1263 COURT LEAVE**

- 1263.1 Court leave shall be the authorized absence from work status without loss of or reduction in pay, leave to which otherwise entitled, or credit for time or service, of an employee other than an employee on a when-actually-employed (WAE) or intermittent basis, whenever the employee is performing jury service as set forth in section 1264 of this chapter, witness service, as provided in section 1265 of this chapter, or on a substituted basis, as specified in sections 1263.5, 1263.6, or 1263.15 of this section.
- 1263.2 Court leave shall only be granted to an employee who, except for the performance of jury or witness service, would have been on duty, or on leave with pay or compensatory time, and shall not be granted to an employee in a nonpay status when summoned to perform such service.
- 1263.3 A night-shift employee who performs jury or witness service during the day shall be granted court leave for his or her regularly scheduled night tour of duty.
- 1263.4 While the word “summoned” as used in this section and in sections 1264 and 1265 of this chapter includes a subpoena, the word does not connote any necessity for a subpoena, but does intend that the summons be an official request, invitation, or call, evidenced by an official writing from the court or authority responsible for the conduct of the proceeding, thus

ruling out strictly voluntary appearances from court leave coverage, as well as a “summons” for any purpose other than those set forth in sections 1264 and 1265 of this chapter.

- 1263.5 If an employee is on annual leave when summoned to perform jury or witness service, court leave shall be substituted, and any annual leave forfeited as a result of the substitution shall be restored as provided in section 1241 of this chapter.
- 1263.6 An employee on annual leave under advance notice of separation due to reduction in force pursuant to Chapter 24 of these regulations, and who is summoned to perform jury or witness service, shall be entitled to have court leave substituted for annual leave, but not to extend beyond the date administratively fixed for his or her separation.
- 1263.7 Court leave shall only be granted for the period actually spent in jury or witness service, plus reasonable travel time.
- 1263.8 When no hardship would result, it shall be within the administrative discretion of the agency head to require an employee on court leave to return to duty or suffer a charge against his or her annual leave or compensatory time, or to be placed on leave without pay if the employee does not elect to use annual leave or compensatory time (or if there is no available annual leave or compensatory time), if the employee is excused from jury or witness service for half or more of a workday. A hardship would be deemed to occur if the employee was unable to perform a substantial part of a day's duty, or if the employee was assigned to a night shift.
- 1263.9 Upon return to duty, the agency head may require the employee to certify to, or submit written evidence of, the dates and, if possible, the hours of the jury or witness service performed.
- 1263.10 An employee who performed jury or witness service while on court leave shall not be entitled to also retain jury or witness fees paid by the court, a party, or other body for the same period of service, except as follows:
- (a) If a court's rules define its fees as payment for travel and meals, or otherwise as reimbursement for expenses, then these fees may be retained by an employee; and
  - (b) An employee shall be permitted to retain fees received for jury or witness service performed on a holiday falling within the employee's basic tour of duty if, had the employee not been performing such service, he or she would have been excused from regular duties on that holiday.
- 1263.11 The employee shall turn over to his or her agency any fees for jury or witness service that are not authorized to be retained.
- 1263.12 The employee shall be permitted to keep any excess of the jury or witness fees over the amount of compensation due him or her for the same period.
- 1263.13 An employee who is in a leave-without-pay status as specified in section 1267 of this chapter when summoned for jury or witness service, and consequently not entitled to court leave, shall be entitled to retain all fees for services while in a leave-without-pay status.
- 1263.14 An employee who is a party in any civil action, or a defendant in a criminal action, shall not be entitled to court leave, but shall be required to take annual leave, compensatory time, or leave without pay, as appropriate.
- 1263.15 An employee who is a successful plaintiff in an action against the District government

brought under the Civil Rights Act of 1964, and who used annual leave, compensatory time, or leave without pay, shall be made whole as follows:

- (a) Any annual leave used by the employee for that period shall have court leave substituted therefore, and any annual leave forfeited as a result of the substitution shall be restored as provided in section 1241 of this chapter;
- (b) Any compensatory time used by the employee for that period shall have court leave substituted therefore; and
- (c) Any leave without pay used by the employee for that period shall have court leave substituted therefore, and the employee given back pay.

## 1264 JURY SERVICE

1264.1 Jury service for which court leave is authorized shall include any service as either a grand juror or petit juror in any jurisdiction, including time spent pursuant to a summons to appear for such service, whether or not actually selected to serve on such jury or juries.

## 1265 WITNESS SERVICE

1265.1 For the purposes of this section, the following term has the meaning ascribed:

**Judicial proceeding** – any civil or criminal action, suit, or other proceeding of a judicial nature, whether at law or in equity, before a court of any jurisdiction, including any condemnation, preliminary, informational, or other such proceeding. The term also includes an administrative hearing or proceeding if it is to be held within the Washington Standard Metropolitan Statistical Area (WSMSA). All stages (preliminary hearing, inquest, trial, or deposition taking) of the proceeding would be covered, including hearings and conferences before a committing court, magistrate, commission, Administrative Law Judge, Hearing Examiner, grand jury proceedings, and coroners' inquests, and hearings and conferences conducted by a prosecuting attorney for the purpose of determining whether an information or charge should be made in a particular case.

1265.2 Witness service for which court leave is authorized shall include any time spent by an employee summoned by any court or administrative agency having proper jurisdiction to appear as a witness or to produce evidence in any judicial proceeding in which the District of Columbia, the United States, or another state or local government is a party.

1265.3 An employee summoned as a witness in any matter that does not meet the requirements of section 1265.1 of this section may be granted annual leave, compensatory time, or leave without pay, as appropriate.

1265.4 An employee shall be considered to be performing official duty, rather than on court leave, during any period with respect to which he or she is summoned or assigned by his or her agency to testify or produce official records in his or her official capacity.

1265.5 If there is a question as to whether or not a particular summons falls within the criteria of sections 1265.1 or 1265.4 of this section, the agency head shall contact the court or other authority issuing the summons, and seek clarification.

1265.6 An employee performing official duty as set forth in section 1265.4 of this section shall be entitled to reimbursement of travel expenses pursuant to District government travel regulations.

**1266 ADMINISTRATIVE LEAVE**

- 1266.1 Administrative leave may be granted by an agency head, at his or her discretion, for up to ten (10) consecutive workdays.
- 1266.2 Administrative leave in excess of ten (10) consecutive workdays may be granted only with the approval of the personnel authority.
- 1266.3 Administrative leave shall be granted when an employee has been given permission to attend a meeting or conference, or to participate in an approved training program, but not directed to attend or participate.
- 1266.4 It shall be appropriate for an agency to use administrative leave in any case where time is needed to complete an investigation that could lead to a corrective or adverse action. However, before placing an employee on administrative leave while an investigation is pending, the agency head shall determine whether the employee could be temporarily reassigned to another unit for the duration of the investigation.
- 1266.5 Temporary reassignment should be chosen over administrative leave in those cases where the employee's continued presence at the work site does not interfere with government operations, impede the pending investigation, or place other employees at risk.
- 1266.6 Administrative leave shall normally be authorized on an individual basis, except when a District government facility is closed or a group of employees is excused from work for various purposes.
- 1266.7 As provided in Chapter 16 of these regulations, an employee shall be given administrative leave for up to ten (10) hours for the purpose of preparing his or her answer to a notice of proposed adverse action initiated under that chapter.
- 1266.8 An employee shall be given administrative leave at reasonable times for the purpose of consulting with District government personnel officials, an equal employment opportunity officer, or with a supervisory or management official of higher rank than the employee's immediate supervisor, concerning the employee's duties, working conditions, employment and retirement status, complaints, grievances, appeals, and like matters; however, the employee shall be required to ask his or her immediate supervisor to indicate a convenient time when he or she can be excused without unduly disruption to the work schedule, and shall be required to inform the supervisor of the name of the official the employee needs to consult with, or office to be visited.
- 1266.9 An employee shall be given administrative leave for the purpose of taking a medical examination for District government employment, an examination for induction or enlistment in the active—but not the reserve—armed forces, a District government vehicle operator's examination, or other examination that his or her agency has requested him or her to take in order to qualify for reassignment, promotion, or continuance of his or her present job.
- 1266.10 Up to two (2) hours of administrative leave may be granted to an employee to attend an initial appointment for the Employee Assistance Program (EAP) pursuant to Chapter 20 of these regulations.
- 1266.11 A request by an elected Advisory Neighborhood Commissioner for administrative leave to attend an official Advisory Neighborhood Commission function shall be granted, unless the absence would seriously disrupt the activities of the District government agency in which the

Advisory Neighborhood Commissioner is employed.

- 1266.12 Except when a work schedule has been established as provided in section 1204.2(j) of this chapter, an employee who is a member of a board or commission shall be given administrative leave to attend official board or commission meetings as defined in Chapter 11 of these regulations.
- 1266.13 An employee shall be given administrative leave, usually for a period not to exceed four (4) hours, in order to comply with the registration requirements of section 3 of the Military Selective Service Act, as amended (50 U.S.C. APP. 453), subject to the supervisor's right to approve the date and times at which such absence shall be granted.
- 1266.14 As provided in section 1266.15 of this section, an employee shall be given administrative leave for the purpose of voting in any election or referendum on a civic matter in his or her community.
- 1266.15 Where the polls are not open at least three (3) hours either before or after an employee's regular hours of work, an employee shall be granted an amount of administrative leave that will allow the employee to report for work three (3) hours after the polls open or leave work three (3) hours before the polls close, whichever requires the lesser amount of absence from duty.
- 1266.16 An employee shall be given administrative leave for initial treatment (including reasonable time spent in travel) of an injury incurred in the line of duty, and for the remainder of the day in which the injury occurred when the injury is sufficiently serious to justify the granting of sick leave had the injury not have been incurred in the line of duty.
- 1266.17 An employee who has returned to a full tour of duty but who, as a result of an illness or injury incurred in the line of duty, must report periodically for subsequent or follow-up treatment to a facility or physician authorized to treat him or her, shall be given administrative leave for the time necessary to receive such treatment (including travel) when treatment must be scheduled during the employee's regular tour of duty.
- 1266.18 An employee who is a disabled veteran, and who must report periodically for subsequent or follow-up medical examination or treatment directly related to his or her disability, may be given administrative leave for the time necessary to receive such treatment (including travel) when treatment must be scheduled during the employee's regular tour of duty. Requests for such leave shall include documentation and shall be made in advance.
- 1266.19 An employee who donates blood to the Red Cross or to any similar organization, or who donates blood to any District government employee in need of a blood transfusion, or who makes a donation of blood to replace blood required by any District government employee shall be given administrative leave for a reasonable period of time for this purpose.
- 1266.20 An employee may be given administrative leave to attend a meeting or conference, if not prohibited by law and if the agency head determines that the employee's attendance is in the best interest of the District government.
- 1266.21 An employee may be given administrative leave to attend programs or other meetings or functions that are officially sponsored or conducted by the District government or any of its agencies for the education or other benefit of employees.

1266.22 An employee representative of a recognized labor organization shall be granted administrative leave to attend meetings and conferences with management officials, pursuant to collective bargaining agreements, if prior approval is obtained in accordance with established agency or collective bargaining procedures.

1266.23 The Mayor may authorize the dismissal of employees for special reasons within his or her discretion without first declaring the day or portion of the day a legal public holiday under the provisions of subsection 1220.4 of this chapter. When dismissal is so authorized, affected agencies shall grant administrative leave to employees other than those designated as essential or emergency employees under section 1270 of this chapter.

## **1267 LEAVE WITHOUT PAY**

1267.1 Leave without pay shall be charged only for those hours during which an employee would otherwise work or for which he or she would be paid, but shall not be charged for hours for which an employee would receive overtime pay.

1267.2 The permissive nature of leave without pay distinguishes it from absence without leave, which shall be a nonpay status resulting from an agency determination that it will not grant annual leave, sick leave, compensatory time, or leave without pay, for a period of absence for which the employee did not obtain advance authorization or for which his or her request for leave has been denied.

1267.3 Except as provided by the D.C. FMLA, authorizing leave without pay shall be a matter of administrative discretion.

1267.4 An employee shall not be entitled to be granted leave without pay as a matter of right, except for the following:

- (a) A disabled veteran who is entitled to leave without pay, if necessary, for medical treatment; and
- (b) A reservist and member of the National Guard who is entitled to leave without pay if necessary to perform military duties.

1267.5 Except in unusual circumstances or in furtherance of a program of interest to the District government when it is known in advance that the period of absence will exceed one (1) year, leave without pay shall not be authorized initially for any period in excess of fifty-two (52) calendar weeks.

1267.6 An agency head may approve leave without pay up to a maximum of fifty-two (52) calendar weeks.

1267.7 A personnel authority may approve leave without pay for any period of time.

1267.8 Section 1267.5 of this section shall not apply to absence for service with the U.S. Armed Forces, or for service with restoration rights under section 827 of Chapter 8 of these regulations.

- 1267.9 Leave without pay shall not extend beyond the termination of the employee's appointment.
- 1267.10 An employee may be involuntarily placed on leave without pay whenever:
- (a) The employee is drawing disability compensation under Title XXIII of the CMPA (D.C. Official Code § 1-623.01 et seq.) (2006);
  - (b) The employee is excused from duty as provided in section 1262.18 of this chapter, and does not elect, or does not have to his or her credit, either annual leave or compensatory time; or
  - (c) The employee was originally granted court leave, has been excused as provided in section 1263.8 of this chapter, and does not elect, or does not have to his or her credit, either annual leave or compensatory time.

## **1268 ABSENCE WITHOUT LEAVE**

- 1268.1 An absence from duty that was not authorized or approved, or for which a leave request has been denied, shall be charged on the leave record as "absence without leave (AWOL)." The AWOL action may be taken whether or not the employee has leave to his or her credit.
- 1268.2 An agency head is authorized to determine whether an employee should be carried as AWOL.
- 1268.3 Pay shall be withheld for the entire period of AWOL.
- 1268.4 If it is later determined that the absence was excusable, or that the employee was ill, the charge to AWOL may be changed to a charge against annual leave, compensatory time, sick leave, or leave without pay, as appropriate.
- 1268.5 An employee shall not be required to perform duties during the period of the AWOL charge.

## **1269 – RESERVED**

## **1270 DECLARED EMERGENCIES—IN GENERAL**

- 1270.1 The three (3) situations listed below may result in a declared emergency:
- (a) A situation that arises after employees are at work, and that results in early dismissals as provided in section 1271 of this chapter;
  - (b) A situation that arises prior to normal duty hours and that results in the declaration of an unscheduled leave or late arrival policy, as provided in section 1272 of this chapter; and
  - (c) A situation that arises prior to normal duty hours, and that results in a shut-down of District government operations as provided in section 1273 of this chapter.

- 1270.2 The Mayor may declare an emergency whenever he or she deems it to be appropriate in the public interest.
- 1270.3 For the purposes of this section as well as sections 1271 through 1273 of this chapter, certain District government employees shall be designated as “essential” or “emergency” employees.
- 1270.4 Because critical District government operations cannot be suspended or interrupted during emergency situations such as those described in subsection 1270.1 of this section, agencies shall identify each agency position with duties that are vital to the continuity of medical facilities, public safety, emergency services, or other crucial operations; and shall designate employees occupying such positions as “essential employees.” Employees designated “essential” shall be required to be at work regardless of the emergency situation declared.
- 1270.5 Preferably, the position description or job specification for a position or groups (families) of positions with duties as described in subsection 1270.4 of this section shall state that the incumbent of the position or positions shall be considered an essential employee required to be at work when an emergency is declared and regardless of the emergency situation declared.
- 1270.6 An employee designated “essential employee” under the provisions of subsection 1270.4 of this section shall be identified by position title or other appropriate means and shall be notified in writing of his or her designation as an essential employee and the specific requirements placed upon the employee in emergency situations. The written notification shall occur within one (1) day of the agency determination for current employees, or at the time of hire or appointment to the essential position, as applicable.
- 1270.7 In addition to employees designated as essential employees and required to be at work regardless of the emergency situation declared, an agency head may designate employees as “emergency employees,” based on the nature and circumstances of a particular declared emergency. That is, employees may be designated as emergency employees on a case-by-case basis and, when so designated, will be called in to work, or required to stay at work during the particular emergency situation.
- 1270.8 An employee designated “emergency” under the provisions of subsection 1270.7 of this section shall be informed of the designation in writing if practicable, or by any other means the agency deems appropriate (i.e., over the telephone or by electronic mail if the employee is not at work when the emergency is declared). A written notification shall follow a non-written notification.
- 1270.9 Essential and emergency employees who are required to work during a declared emergency when non-essential and non-emergency employees are on administrative leave shall be entitled to compensation as provided in chapter 11 of these regulations.

## **1271 DECLARED EMERGENCIES—EARLY DISMISSALS**

- 1271.1 The Mayor may, whenever he or she deems it to be appropriate in the public interest, authorize the early dismissal of employees, whereupon he or she shall notify agencies to dismiss, for a specified period of time, and grant administrative leave to as many employees as the agency head has determined to be practicable.



- 1271.2 Agency heads and other personnel authorities may dismiss, and grant administrative leave to, employees due to breakdown of heating or air conditioning equipment and other similar situations within one or more of the agency's or personnel authority's facilities.
- 1271.3 Except as provided in subsection 1271.5 of this section, whenever early dismissal has been authorized, all employees, except essential and emergency employees subject to the provisions of section 1270 of this chapter, shall be permitted to leave their assigned duty stations prior to the close of the normal workday, on administrative leave, if the following conditions are met:
- (a) They are in a duty status when the notice of early dismissal is received; and
  - (b) Their regular tours of duty end after the hour given as the authorized time for early departure, but otherwise end no later than 7:00 p.m.
- 1271.4 An employee who previously requested and was granted leave for the entire day shall be charged leave for the entire day.
- 1271.5 An employee who, prior to the notice of early dismissal, requests and is granted leave for the remainder of his or her tour of duty, shall be charged leave for the remainder of the tour of duty.
- 1271.6 An employee who requests and is granted leave at any time after the receipt of the notice of early dismissal shall be charged leave only for that period when leave commences to the hour that early dismissal is authorized.
- 1271.7 An employee who requests and is granted leave prior to the notice of early dismissal, but who otherwise makes known his or her intention of returning to duty status at a time that precedes the end of his or her regular tour of duty shall be charged leave only for the period of time specified.
- 1272 DECLARED EMERGENCIES—LATE ARRIVAL OR UNSCHEDULED LEAVE POLICY**
- 1272.1 The Mayor may, whenever he or she deems it to be appropriate in the public interest, authorize one or both of the following:
- (a) A late arrival policy authorizing up to two (2) hours of excused absence; or
  - (b) An unscheduled leave policy.
- 1272.2 Whenever the Mayor authorizes one of the policies set forth in section 1272.1 of this section, he or she shall make every reasonable effort to ensure that such decision is disseminated by the media as widely as possible.
- 1272.3 Each employee shall be responsible for reporting for duty and for making every possible effort to do so, even upon the occurrence of conditions beyond the control of an employee, such as inclement or hazardous weather or transportation disruption.

1272.4 Whenever the Mayor determines that an unscheduled leave policy is in effect, an employee, other than an essential or emergency employee subject to the provisions of section 1270 of this chapter, shall be permitted to utilize annual leave, compensatory time, exempt time off, or leave without pay, for all or part of that day, up to a maximum of eight (8) hours or hours worked under a compressed work schedule, if applicable, without obtaining advance approval or providing detailed justification; however, the use of sick leave must be approved in accordance with section 1243 of this chapter.

1272.5 An employee who does not request leave during a period when an unscheduled leave policy is in effect, and refuses to consent to any type of leave upon return to duty, shall be charged with absence without leave (AWOL).

### **1273 DECLARED EMERGENCIES—SHUT-DOWN**

1273.1 The Mayor may, whenever he or she deems it to be appropriate in the public interest, authorize the shut-down of all non-essential District government operations prior to the commencement of normal duty hours.

1273.2 Whenever the Mayor authorizes such shut-down of all non-essential operations, he or she shall make every reasonable effort to ensure that such decision is disseminated by the media as widely as possible.

1273.3 Agency heads and other personnel authorities may authorize the shut-down of one or more of their facilities due to breakdown of heating or air conditioning equipment and other similar situations, and shall ensure that all affected employees are promptly notified.

1273.4 Except as provided in section 1273.5 of this section, employees shall be given administrative leave for the entire day of shut-down.

1273.5 Each essential or emergency employee subject to the provisions of section 1270 of this chapter shall still be required to report for duty and shall make every possible effort to do so, even upon the occurrence of conditions beyond the control of an employee, such as inclement or hazardous weather or transportation disruption.

### **1274 THRU 1278 – RESERVED**

### **1279 PAID LEAVE PURSUANT TO THE ACCRUED SICK AND SAFE LEAVE ACT OF 2008 (D.C. LAW 17-152)**

1279.1 As specified in this section, certain District government employees are covered by the provisions of the Accrued Sick and Safe Leave Act of 2008 (Act), effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code §§ 32-131.01, *et seq.* (2010 Repl.)).

1279.2 The purpose of the Act is to provide paid leave to covered employees for illness and absences associated with domestic violence and sexual abuse.

1279.3 Pursuant to the Act, covered employees are provided with not less than one (1) hour of paid

leave for every thirty seven (37) hours worked, not to exceed seven (7) days a year.

- 1279.4 Paid leave accrued under this section may be used by a covered employee for any of the following:
- (a) An absence resulting from a physical or mental illness, injury, or medical condition of the employee;
  - (b) An absence resulting from obtaining professional medical diagnosis or care, or preventive medical care, for the employee;
  - (c) An absence for the purpose of caring for a family member who has any of the conditions or needs for diagnosis or care described in paragraphs (a) and (b) of this subsection; or
  - (d) An absence if the employee or the employee's family member is a victim of stalking, domestic violence, or sexual abuse, provided, that the absence is directly related to medical, social or legal services pertaining to the stalking, domestic violence, or sexual abuse, an employee seeking leave under paragraph (d) of this subsection, may do so to:
    - (1) Seek medical attention for the employee or the employee's family member to treat or recover from physical or psychological injury or disability caused by the stalking, domestic violence, or sexual abuse;
    - (2) Obtain services from a victim services organization;
    - (3) Obtain psychological or other counseling services; temporarily or permanently relocate;
    - (4) Take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the stalking, domestic violence, or sexual abuse; or
    - (5) Take other actions to enhance the physical, psychological, or economic health or safety of the employee or the employee's family member or to enhance the safety of those who associate or work with the employee.
- 1279.5 Pursuant to section 6 of the Act (D.C. Official Code § 32-131.05), notwithstanding the provisions of subsection 1279.2 of this section, an employer with a paid leave policy providing paid leave options shall not be required to modify such policy if it offers employees the option to accrue and use leave under terms and conditions that are at least equivalent to the paid leave prescribed in the Act.
- 1279.6 Applicability only to "Intermittent" appointments.
- (a) Because the District government currently has paid leave policies, as specified in this chapter, that provide leave options to eligible District government employees at higher

accrual rates than those provided in the Act, the provisions of this section shall only apply to temporary employees serving under “When Actually Employed” (WAE) (also known as Intermittent) appointments who:

- (1) As of November 13, 2008 have been continuously employed under a WAE appointment for at least one (1) year; and
  - (2) Are employed at any time after November 13, 2008, but only after they have been employed under the WAE appointment for one (1) year;
- (b) Because, by definition, the maximum duration of a WAE appointment is two (2) years, the maximum period an eligible WAE employee could receive paid leave pursuant to the Act after becoming eligible is twelve (12) months; and
- (c) Eligible WAE employees shall accrue paid leave on a prorated basis. Because the maximum number of hours a WAE employee is allowed to work in a biweekly pay period is seventy-two (72), and the maximum amount of paid leave the employee may accrue is not less than one (1) hour for every thirty seven (37) hours worked, eligible WAE employees shall accrue one (1) hour of paid leave per biweekly pay period.

1279.7 Paid leave under this section shall accrue in accordance with the District government’s established biweekly pay period. A covered employee shall accrue paid leave at the beginning on the date on which the employee becomes eligible.

1279.8 As applicable, any unused paid leave accrued during a twelve (12)-month period shall carry over annually. A covered employee shall not use in one (1) year more than the maximum hours as allowed in this section, unless the agency chooses otherwise. Unused paid leave accrued under this section shall not be reimbursed upon separation of employment.

1279.9 For the purposes of this section, the following terms shall have the meanings ascribed:

**Domestic violence** – an intrafamily offense as defined in D.C. Official Code § 16-1001(5)(8).

**Employee** –any individual who has been employed by the same employer for one (1) year without a break in service except for regular holiday, sick, or personal leave granted and has worked at least one thousand (1000) hours during the twelve (12)-month period immediately preceding the request for family or medical leave.

**Employer** – the District government.

**Family member** – (a) a spouse, including the person identified by an employee as his or her domestic partner, as defined in section 2(3) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(3) (2010 Repl.)); (a-1) the parents of a spouse; (a-2) children (including foster children and grandchildren); (a-3) the spouses of children; (a-4) parents; (a-5) brothers and sisters; and (a-6) the spouses of brothers and sisters; (b) a child who lives with an employee and for whom the employee permanently assumes and discharges parental responsibility; or (c) a person with whom the employee shares or has shared, for not less than the preceding twelve (12) months, a mutual residence and with whom the employee maintains a committed relationship, as defined in

section 2(1) of the Health Care Benefits Expansion Act of 1992, June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(3)).

**Paid leave** – accrued increments of compensated leave provided by an employer for use by an employee.

**Premium pay program** – a plan offered by an employer pursuant to which an employee may elect to receive extra pay in lieu of benefits.

**Sexual abuse** – any offense described in the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code §§ 22-3001, *et seq.* (2001 & 2011 Supp.)).

## 1280 PARENTAL LEAVE

1280.1 District government employees are covered by the provisions of the Parental Leave Act (Act), effective August 17, 1994 (D.C. Law 10-146; D.C. Official Code §§ 32-1201, *et seq.* (2010 Repl.)). Regulations on the Act, adopted by the Office of Human Rights, are contained in Chapter 17, Parental Leave, of title 4 of the District of Columbia Municipal Regulations.

1280.2 An employee who is a parent shall be entitled to a total of twenty four (24) hours leave during any twelve (12)-month period to attend or participate in school-related events of his or her child.

1280.3 An employer may deny the leave only if the granting of it would disrupt the employer's business and make the achievement of production or service delivery unusually difficult.

1280.4 For the purposes of this section, the following terms shall have the meaning ascribed:

**Parent** – (a) the natural mother or father of a child; (b) a person who has legal custody of a child; (c) a person who acts as a guardian of a child regardless of whether he or she has been appointed legally as such; (d) an aunt, uncle, or grandparent of a child; or (e) a person who is married to, or in a domestic partnership with a person listed in categories (a) through (d) of this definition.

**School-related event** – an activity sponsored by either a school or an associated organization such as a parent-teacher association. A school-related event includes: a student performance such as a concert, play, or rehearsal; the sporting game of a school team or practice; a meeting with a teacher or counselor; or any similar type of activity. A school-related event shall involve the parent's child directly either as participant or subject but not as a spectator.

1280.5 The parental leave described in subsection 1280.2 of this section may consist of unpaid leave unless the parent elects to use any paid family, vacation, personal, compensatory, or leave bank leave that has been provided by the employer.

1280.6 Eligible employees shall notify the employer of the desire for leave to attend a school-related event at least ten (10) calendar days prior to the event, unless the need to attend the school-related event cannot be reasonably foreseen.

1280.7 Employers shall post and maintain in a conspicuous place, a notice that sets forth excerpts from or summaries of the pertinent provisions of the Act and information that pertains to the filing of a complaint under the Act.

## **1281 VOLUNTARY LEAVE TRANSFER PROGRAM**

1281.1 District government employees are covered by the provisions of D.C. Official Code § 1-612.31 *et seq.* (2006) establishing the Voluntary Leave Transfer Program for the District government.

1281.2 In accordance with D.C. Official Code § 1-612.32 (a) (2006), each District government agency shall establish a voluntary leave transfer program for its employees, under which annual or universal leave accrued or accumulated by an employee may be transferred on an hour-for-hour basis within the agency to the annual or universal leave account of any other eligible agency employee.

1281.3 In accordance with D.C. Official Code § 1-612.32 (b) (2006), a voluntary transfer of leave is authorized when a potential recipient employee will suffer a prolonged absence due to:

- (a) The employee's serious health condition; or
- (b) The employee's responsibility to provide personal care to an immediate relative.

## **1299 DEFINITIONS**

1299.1 When used in this chapter, the following terms have the meaning ascribed:

**Absence without leave** – an unauthorized and unapproved absence from duty; also referred to as “AWOL.”

**Accrued leave** – the leave earned by an employee during the current leave year that is unused at any given time in that leave year.

**Accumulated leave** – the unused leave remaining to the credit of an employee at the beginning of the leave year.

**Administrative leave** – an excused absence from duty without loss of pay and without charge to annual leave, sick leave, or compensatory time.

**Administrative workweek** – a period of seven (7) consecutive calendar days, Sunday through Saturday.

**Agency**—has the meaning set forth in D.C. Official Code § 1-603.01(1).

**Alternative work schedules** – means both flexible work schedules and compressed work schedules.

**Annual leave** – leave earned by an employee to be used for absence from duty, without loss of pay, primarily for a vacation or time off for personal or emergency purposes.

**Annual leave bank**—a fund of accumulated annual leave donated by employees of a personnel authority for the use of leave bank members of that personnel authority who need such leave because of a medical

emergency.

**Basic workweek** – the days and hours within an administrative workweek that make up the employee’s scheduled tour of duty.

**Biweekly pay period** – two (2) designated consecutive administrative workweeks as established by the pay authority.

**Biweekly rate of basic pay**—the biweekly rate of pay fixed by appropriate authority, before deductions and exclusive of any premium pay, authorized for the grade of the position held by the employee.

**Child**—a person twenty-one (21) years of age, and also persons who, though twenty-one (21) years of age or older, are substantially dependent upon the eligible employee by reason of physical or mental disability, and persons up to twenty-three (23) years of age and a full-time student at an accredited college or university.

**Combat zone** – those areas determined by the President in accordance with section 112 of the Internal Revenue Code.

**Communicable disease** – a disease that is ruled as subject to quarantine, requires isolation of the patient, or requires restriction of movement by the patient for a specified period as prescribed by the health authorities having jurisdiction.

**Compressed work schedule** – in the case of a full-time employee, an eighty-hour (80-hour) biweekly basic work requirement that is scheduled for less than ten (10) workdays; in the case of a part-time employee, a biweekly basic work requirement of less than eighty (80) hours that is scheduled for less than ten (10) workdays and which may require the employee to work more than eight (8) hours in a day (D.C. Official Code § 1-510 (b)) (2006).

**Core hours** – the time periods during the workday, workweek, or pay period that are within the tour of duty during which an employee under a flexible work schedule is required to be present for work.

**Employee**—has the meaning provided in D.C. Official Code § 1-603.01(7), except that it shall mean only an employee who accrues annual leave as provided in D.C. Official Code § 1-612.03.

**Excused absence**—an absence from duty administratively authorized and approved without loss of pay and without charge to leave.

**Family member** – the spouse (including the person identified by an employee as his or her “domestic partner” as defined in D.C. Official Code § 32-701 (2006) and parents thereof, children (including foster children) and spouses thereof, parents, brothers and sisters and spouses thereof, and any individual related by blood.

**Full-time employee** – earns leave during each full biweekly pay period while in a pay status or in a combination of a pay status and a non-pay status.

**Flexible work schedule** – in the case of a full time employee, a work schedule that has an eighty-hour (80-hour) biweekly basic work requirement that allows an employee to determine his or her own schedule within the designated hours (core hours) set by the employing agency; in the case of a part-time employee, a work schedule that has a biweekly basic work requirement of less than eighty (80) hours which allows an employee to determine his or her own schedule within the designated hours set by the employing agency.

**FLSA compensatory time** – time off in lieu of overtime pay for overtime work performed, earned and accrued under the conditions set forth in Chapter 11 of these regulations.

**Hourly rate of basic pay**—

- (a) For employees paid on an annual basis, the employee's scheduled rate of pay divided by two thousand eighty (2080) hours; except that for uniformed members of the Fire Fighting Division of the Fire and Emergency Medical Services Department, the employee's scheduled rate of pay divided by the number of work hours contained in the work year; and
- (b) For employees paid on an hourly basis, the hourly rate of pay contained on the salary schedule.

**Immediate relative** – an individual who is related by blood or marriage to an employee covered by this chapter as father, mother, child, husband, or wife; an individual for whom an employee covered by this chapter is the legal guardian; or the domestic partner of an employee covered by this chapter.

**Leave bank member**—an employee who donates at least four (4) hours of annual leave in a leave year to the annual leave bank established by his or her personnel authority.

**Leave donor**—an employee who donates annual leave to the annual leave bank established by his or her personnel authority.

**Leave recipient**—a leave bank member whose personnel authority has approved the member's application to receive annual leave from the annual leave bank.

**Leave restriction** – a limitation on an employee's ability to use annual or sick leave as a result of engaging in a pattern or practice of abuse of leave.

**Leave to which otherwise entitled** – accumulated and accrued annual leave, sick leave, and compensatory time.

**Leave without pay** – a temporary nonpay status and absence from duty granted at the employee's request or as otherwise authorized by regulations; also referred to as "LWOP."

**Leave year** – the period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately preceding the first day of the first complete pay period in the following calendar year.

**Medical certificate** – a written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination, or treatment, or to the period of disability while the patient was receiving professional treatment.

**Medical condition** – a health impairment that results from injury or disease, including psychiatric disease, or any other physical or mental impairment that may affect an individual's capacity to safely and satisfactorily perform his or her assigned duties.

**Medical emergency**—a medical condition of an employee or a member of an employee's family that is likely to require the employee's absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave.



**Official duty station** – the place at which the employee is required to perform duties.

**Personnel authority**—an individual or entity authorized by D.C. Official Code § 1-604.06(b) to implement personnel rules and regulations for employees of an agency or group of agencies of the District of Columbia; or persons delegated that authority by that individual or entity.

**Prolonged period of time**—at least ten (10) consecutive workdays.

**Scheduled tour of duty** – the period within an administrative workweek, within which employees are required to be on duty regularly.

**Sick leave** – leave with pay earned by an employee to be used while receiving medical, dental, or optical examination or treatment; while incapacitated for the performance of duties by sickness, injury, or pregnancy or childbirth; while required to give care or attendance to a family member who is afflicted with a contagious disease; or when the employee’s presence at his or her official duty station would jeopardize the health of others because of exposure to a contagious disease.

**Standby time** – period(s) in which an employee is officially ordered to remain at or within the confines of his or her official duty station, not performing actual work but holding himself or herself in readiness to perform actual work when the need arises or when called.

**Substantial loss of income**—pay which is more than fifty percent (50%) of the employee's biweekly rate of basic pay.

**When Actually Employed (WAE) Appointment** – temporary appointment under which the employee serves on an intermittent basis, that is, non full-time without a prescheduled regular tour of duty. This type of temporary appointment is also referred to as either “intermittent appointment,” or as “intermittent service.”

*D.C. Register* Updates for Chapter 12 of the D.C. Personnel Regulations,  
Hours of Work, Legal Holidays and Leave

The following *D.C. Register* citations identify when a given section(s) of Chapter 12, Hours or Work, Legal Holidays and Leave, 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.

<b><i>D.C. Register</i> Date</b>	<b>Section(s)</b>	<b>Change(s) Reflected on Page(s)</b>	<b>Comments</b>
40 DCR 1292 (2/12/93)	Section 1250	DPM Transmittal No. 33 (March 11, 2003)	The rules added a new section 1250, <i>Annual Leave Bank</i> , to the chapter.
49 DCR 9056 (10/4/02)	Sections 1250 through 1258; 1259; and 1299	DPM Transmittal No. 89  (Entire chapter)	The rules added a new section 1259, <i>Excused Absence in Connection with Serving as a Bone Marrow or Organ Donor</i> , to the chapter, updated the citations in sections 1250 through 1258; and added a definition of the term “ <i>excused absences</i> ” to the chapter.
54 DCR 11538 (11/30/07)	Entire chapter	DPM Transmittal No. 156  (Entire chapter)	These rules amended the chapter to implement all the provisions of Title XII of the CMPA. Also, the Notice of Proposed Rulemaking published at 54 DCR 9780 (10/12/07) superseded the Notice of Proposed Rulemaking published at 29 DCR 3727 (9/27/82); and supplemented sections 1250 through 1259 and 1299 related to the annual leave bank program; excused absence in connection with serving as a bone marrow or organ donor; and definitions, respectively, published at 40 DCR 1292 (2/12/93) and amended at 49 DCR 9056 (10/4/02). These sections were unaffected by the Notice of Final Rulemaking published on 11/30/07, and remain in effect as previously published, except that this notice would add definitions not previously included in section 1299 of the chapter.
55 DCR 012489 (12/12/08)	Section 1299	DPM Transmittal No. 177	Added the definition for the term “ <i>immediate relative</i> ” to section 1299 of the chapter.
59 DCR 02690	Sections 1201.1; 1204.2(e); 1210.5 through 1210.6; 1211.8; 1212.1 through	DPM Transmittal No. 203	These rules amended section 1270 to change the term “ <i>emergency employees</i> ” to “ <i>essential</i> ”

	<p>1212.6; 1220.1;          1227.1; 1232.1 through          1232.2; 1232.6 through          1232.8; 1233.1 through          1233.5; 1235.1 through          1235.5; 1236.1 through          1236.7; 1237.1 through          1237.3; 1239.1 through          1239.4; 1240.1 through          1240.5; 1243.1 through          2143.8; 1244.1 through          1244.2; 1250.1 through          1250.2; 1258.2 through          1258.4; 1266.4;          1266.23; 1270 through          1270.9; 1271.3;          1272.4; 1273.5; 1279.1          through 1279.9; and          1280.1 through 1280.7</p>		<p><i>employees</i>” when designating employees required to be at work when an emergency situation is declared by the Mayor and to add a new category to be designated as <i>“emergency employees.”</i></p> <p>In addition, these rules added new sections 1279 (Paid Leave Pursuant to the Accrued Sick and Safe Leave Act of 2008) and 1280 (Parental Leave); and amended subsection 1204.2(e), regarding the <i>lunch period</i> provided to certain District government employees; amended subsection 1211.8, regarding <i>telecommuting</i>; changed the heading of section 1212 of the chapter from <i>“Rest Periods”</i> to <i>“Rest and Lunch Periods”</i>. Also amend sections 1227.1; 1232.6, 1232.7, 1232.8, 1233.5, 1232, 1236.2; 1237.1; 1239; 1240.3, 1242.4, 1243, and 1244.2 related annual and sick leave.</p>
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