



**Policy and Compliance
Administration**

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Subject: **Agency Authority to Issue Leave Related Policies – 6B DCMR § 1235**
DPM Op. 2017-1235

Dear Mr. Harris:

The Department of Human Resources recently received an inquiry from your office concerning agencies' authority to issue agency-level human resources policies. In particular, you asked whether the Department of Youth Rehabilitation Services has the authority to issue its own leave policies, specifically DYRS policy II.b.1, entitled *Time, Attendance, and Leave Policy*. All agencies, including DYRS, have the authority, and are often required, to establish policies relating to leave usage. However, any such policy must be consistent with the Comprehensive Merit Personnel Act and the implementing D.C. Municipal Regulations as promulgated at Title 6B, Chapter 12. We conclude that DYRS had the requisite authority to issue its leave policy as: (1) the Director of DYRS has authority to manage agency personnel; (2) DYRS was required to establish a leave policy under Chapter 12; and (3) the content of DYRS' policy is consistent with existing regulations.

We begin with the agency's establishment act, codified at D.C. Official Code § 2-1515.01, *et seq.* D.C. Official Code § [2-1515.02](#) sets forth the duties and responsibilities of the agency's Director. D.C. Code § 2-1515.02(d) provides that the Director "shall have authority over the Department, its functions, [and] its personnel[" Consequently, the DYRS Director has statutory authority to manage the agency's personnel, which necessarily includes establishing protocols and policies for personnel matters such as leave use and management.

That said, the Director's management of agency personnel and issued personnel policies must comply with the requirements of the CMPA, which has been implemented through rulemaking. As you are aware, lawfully promulgated regulations carry the force of law. Therefore, any leave policies established by DYRS must be consistent with the regulations found in Title 6B, Chapter 12 of the DCMR. Notably, DYRS' leave policy is not only consistent with the foregoing rules, but District personnel regulations required *DYRS* to establish an agency leave policy for its workforce.

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6B DCMR § [1235.2](#) reads in pertinent part: “[e]mployees are required to obtain approval for the use of annual leave by whichever method is formally established within his or her agency.” Section [1242.4](#) reads: “[a]n employee shall file a written application for sick leave within such time limits as the agency may prescribe.” While the rules do not specifically direct agencies to establish such policies, the rules presuppose the creation of policies at the agency level. Consequently, DCHR takes the position that agencies are required to establish agency-specific leave policies. DYRS fulfilled this obligation with DYRS policy number II.b.1.

Notwithstanding the foregoing, as noted, agency personnel policies must still conform with the relevant regulatory requirements. In the instant case, DYRS’ leave policy contains two main substantive provisions: “Procedures” and “Sanctions.” In the “Procedures” section, DYRS requires that employees request and be approved for annual leave before taking such leave. This is consistent with 6B DCMR § [1235.2](#). This same section also provides timelines and procedures for other forms of leave such as emergency leave procedures, consistent with § [1236](#) and procedures for requesting sick leave, consistent with § [1242](#).

The penalties section defines conditions warranting corrective or adverse action, such as tardiness, call-ins and absences that are not approved by the agency. Agencies are guided by Title 6B, Chapter 16, for purposes of resolving corrective and adverse action matters. Attendance related offenses are addressed at § [1607.2\(f\)](#). The illustrative administrative actions range from counseling to removal for various levels of attendance related infractions. The penalties outlined in DYRS’ policy fall within the ranges established at § [1607.2\(f\)](#).

In sum, District personnel regulations require that DYRS maintain an agency-level leave policy. DYRS’ established leave procedures mirror the regulations and supplement the operational details that the rules require of each agency. Additionally, DYRS’ established attendance related penalties are consistent with the illustrative actions found in Title 6B, Chapter 16. For these reasons, we conclude the Director of DYRS was authorized to issue the policy in question and that the content of the policy fully comports with statutory and regulatory guidelines.

Additional Information

For additional information, please see:

- [D.C. Code § 2-1515.02](#), *Department of Youth Rehabilitation Services*
- [D.C. Code § 1-612.03](#), *Leave*
- 6B DCMR § [1235](#), [1236](#), [1242](#), *Annual Leave, Emergency Annual Leave, Sick Leave*
- 6B DCMR § [1607](#)

Sincerely,



Justin Zimmerman
Associate Director