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GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Memorandum 2008-1
September 23, 2008

TO: ALL DEPARTMENT AND AGENCY HEADS

ORIGINATOR: Brender L. Gregory, Director, D.C. Department of Human Resources

SUBJECT: Scheduling "Use or Lose" Annual Leave and Requests for Restoration of Annual Leave

Each subordinate agency is to remind its employees that annual leave in excess of the maximum carryover hours of 240 must be used prior to the end of the leave year, **January 4, 2009**, in order to avoid forfeiture (loss) of the annual leave.

In accordance with section 1239.1 of Chapter 12 of the D.C. personnel regulations, Hours of Work, Legal Holidays and Leave, annual leave in excess of 240 hours that would otherwise be forfeited (lost) may be restored for later use if the leave was scheduled at least 3 pay periods in advance of the end of the leave year, approved in writing, and subsequently denied due to the demands of the public business.

Accordingly, employees with "use or lose" leave are to schedule the use of such leave by submitting a *D.C. Standard Form 71, Application for Leave*, **not later than November 22, 2008**.

Agencies should also remind employees that "use or lose" leave may be donated to the Annual Leave Bank Program. Again, to avoid forfeiture of such leave, the donation to the leave bank must be made prior to the end of the leave year. Employees may donate to the Annual Leave Bank Program by completing the "*Application to Donate Annual Leave to the Leave Bank*" form. The form must be submitted to the appropriate agency official **not later than November 22, 2008**. Appropriate agency personnel must prepare a "*Leave Used Prior Pay Periods (Adjustments to Automated Leave System)*" form for submission to the Office of Pay and Retirement Services (OPRS) for the pay period ending **December 6, 2008**. The "Leave Used Prior Pay Periods" form can be accessed on the OPRS intranet site at www.oprs.in.dc.gov under the "*Payroll Forms*" link.

The provisions of this Mayor's Memorandum **do not** apply to Executive Service employees, who accrue universal leave. Executive Service employees have 26 days of universal leave credited to their universal leave account on the 1st pay period of the leave year, or on a pro-rata basis for appointments made after the 1st pay period of the leave year; and may carry over not more than five 5 days (40 hours) of unused universal leave for use in succeeding years. Any universal leave amount in excess of the 5 days will be forfeited (lost) at the end of the leave year.

Attachment

1236.4 An employee shall not be deemed to have received prior approval to take emergency annual leave by notifying a co-worker or leaving a message on the voicemail of the supervisor.

1236.5 An employee under leave restriction who takes emergency leave without receiving prior approval shall be subject to being placed in an Absence Without Official Leave status in accordance with Section 1268 of this chapter.

1237 ANNUAL LEAVE—ADVANCING

1237.1 Annual leave may be advanced, at the discretion of the agency head, up to but not exceeding the amount of annual leave that would accrue to the employee by the end of the current leave year, or by the employee's anticipated termination date, if applicable, whichever is sooner.

1237.2 If the reason for an employee's request for advanced annual leave would qualify for 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.*) (2006), any advanced annual leave granted shall count towards the sixteen-week (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), annual leave that is lost due to administrative error when the error causes a loss of annual leave otherwise accruable after June 30, 1960, or because of exigencies of the public business when the annual leave was scheduled in advance, or because of sickness of the employee when the annual leave was scheduled in advance, shall be restored to the employee.

1239.2 Pursuant to section 1203 (h)(2)(A) of the CMPA (D.C. Official Code § 1-612.03 (h)(2)(A)) (2006), restored annual leave that causes the employee's accumulated annual leave balance to

exceed the maximum allowable accumulation under section 1239.1 of this chapter, as appropriate, shall be credited to a separate leave account for the employee and shall be available for use by the employee for a period of two (2) years.

1239.3 Pursuant to section 1203 (h)(2)(B) of the CMPA (D.C. Official Code § 1-612.03 (h)(2)(B)) (2006), annual leave otherwise accruable after June 30, 1960, which is lost because of administrative error and is not recredited because the employee is separated before the error is discovered, shall be subject to credit and liquidation by lump-sum payment only if a claim is filed within three (3) years immediately following the date the error was discovered.

1239.4 Except in the case of administrative error, annual leave shall be restored under the provisions of section 1239.1 of this section only if the agency head first determines either of the following:

(a) That an exigency of the business is of major importance and that annual leave scheduled at least three (3) biweekly pay periods prior to the actual end of the leave year must be denied; or

(b) That the substitution of sick leave for annual leave resulted in an inability to comply with the approval and scheduling requirements of paragraph (a) of this subsection.

1239.5 As applicable, annual leave restored under section 1239.1 of this section and credited to a separate leave account as provided in section 1239.3 of this section shall be forfeited unless scheduled and used not later than the end of the leave year ending 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.

1239.6 Restored leave shall be included in a lump-sum payment if unused and still available upon the separation of the employee.

1239.7 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