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MEMORANDUM

TO: ALL LAW DEPARTMENT EMPLOYEES

FROM: SIMONE HOBBS
DIRECTOR OF HUMAN RESOURCES

DATE: JUNE 10, 2020

SUBJECT: LEAVE POLICY FOR EMPLOYEES AS IT RELATES TO COVID-19

In accordance with the leave policy set forth by DCAS as it relates to COVID-19, please read the following as it replaces the previous leave policy emailed on May 15, 2020. This policy is in effect as of June 3, 2020.

Leave Policy for Employees Currently Providing Non-Essential and Essential Services

Symptoms of COVID-19 are:

- Cough
- Shortness of breath or difficulty breathing
- Fever
- Chills
- Muscle pain
- Sore throat
- New loss of taste or smell

Employees Currently Providing Non-Essential Services

Defined as agency-specific and whole of government roles, functions, and duties that are not critically essential to the continued performance as defined in the essential services categories. Records management, license processing, and grant auditing are examples of employees performing non-essential services.

- Employees who currently are not assigned to perform essential services shall be designated as employees currently performing non-essential services. Administrative and clerical office-based employees are presumptively performing non-essential services. If their presence at the worksite is necessary for the performance of an essential service, they may be designated by the Agency as an employee providing essential service. For example, an administrative employee who performs a task for an essential service that cannot be made accessible to the employee's home may be designated as an employee currently providing essential service.
- Employees currently performing non-essential services are expected to perform work remotely. They are required to complete all work assignments which they are assigned by the Agency and which they have the technological capacity to perform at home using personal equipment or equipment provided by the agency (e.g., computer, phone, internet access). Those employees may also be re-assigned to perform essential services within their agencies or by the City in other agencies at a location other than at their home, including at emergency services administered by the Department of Education, such as Regional Enrichment Centers, food services sites, and nursing care sites for vulnerable students, as circumstances require.
- Designation of an employee as performing non-essential services is temporary and may change to essential as the COVID-19 emergency develops. **An employee who refuses to perform assigned work or to obtain equipment provided by the Agency to perform assigned work shall be charged accrued leave and may be subject to discipline.** Agencies must make and document all diligent efforts to identify work that can be performed remotely by an employee designated as performing non-essential services. An employee designated as currently performing non-essential services who in the rare circumstance is unable to work remotely because of inadequate equipment or lack of assignment shall be granted excused leave with pay without charge to leave accruals.

Employees Currently Performing Essential Services

There are currently 4 categories, **Responding to the COVID-19 Emergency; Lifesaving; Life Protecting, Life Safety, Transportation, and Utilities; and Workforce and Internal Service Continuity.**

Defined as delivery of any service or function that is critical to the mitigation of the spread of COVID-19 and emergencies arising because of the outbreak or actions taken to mitigate the outbreak. Emergency Medical Services Technicians, Paramedics, 911 operators, Public Health Nurse, Shelter Workers, Child Welfare Workers and Service Providers, Marine Engineer (Ferry), Traffic Enforcement Agents, Information Technology employees who maintain citywide and agency networks and communications, Revenue Operations, Essential Services Contract

Administrators, City Tax Auditors, and Consumer Affairs Inspectors are all examples of employees performing essential services.

- Employees performing essential services are required to work at home or other alternate location if the agency has determined that is feasible pursuant to the agency's telework plan implemented in accordance with Personnel Service Bulletin 600-3 (Temporary Citywide Telework Policy for City Employees During the COVID-19 Outbreak), dated March 13, 2020. Employees who are unable to perform essential services at home, for example field workers, must continue to work at the locations to which their agencies have assigned them.
- Employees performing essential services who exhibit symptoms of COVID-19 that are not due to a pre-existing condition must stay home.

Excused Absence

- Effective April 1, 2020, pursuant to the Emergency Paid Sick Leave Act, full-time employees may receive up to 2 work weeks of excused leave. Part-time employees may receive excused leave for the number of bi-weekly hours that the employee was expected to work.
 - An employee who has a documented positive COVID-19 test shall receive excused absence without charge to leave balances until the employee is cleared to return to work.
 - Employees who are exhibiting symptoms of COVID-19, subjected to a governmental quarantine or isolation order and are unable to telework while observing the governmental quarantine or isolation order, as well as employees being advised by a licensed health care provider to self-quarantine either because of exposure to COVID-19 or a heightened risk associated with exposure to COVID-19 are eligible for up to 2 work weeks of excused leave at full pay.
 - If the employee has any documented symptom of COVID-19, employees must not report to work other than telework for **10** days after the symptoms started or for 3 days after the fever has stopped, whichever is longer.
 - Absence beyond 2 work weeks may be charged to sick leave accruals.
 - Employees should provide documentation that they exhibit symptoms of COVID-19.
 - Employees must provide documentation from a licensed health care provider that the employee has been advised to self-quarantine because of exposure to COVID-19

or a heightened risk associated with exposure to COVID-19. For employees that are able to telework, this documentation must state that the employee is unable to telework due to the self-quarantine.

- Documentation obtained from Teledoc and other on-line doctor's services will be accepted.
- Employees are eligible for 2 work weeks of excused leave at 2/3 the amount of the employee's regular rate of pay, not to exceed \$200 per day or a total of \$2,000.
 - Employees caring for an individual subject to a governmental quarantine or isolation order must demonstrate that the individual depends on the employee for care and that he or she is unable to telework while caring for an individual under the governmental quarantine or isolation order.
 - Employees caring for an individual who has been advised by a licensed health care provider to self-quarantine either because of exposure to COVID-19 or because of heightened risk associated with exposure to COVID-19. The employee must provide documentation of the health care provider's advice and must demonstrate that the individual depends on the employee for care and that he or she is unable to telework while caring for an individual in self-quarantine.
 - Employees caring for a son or daughter under 18 years of age whose school or place of care has been closed or whose child care provider is unavailable due to COVID-19 precautions.
- Excused leave at full or partial pay is immediately available to an employee who is unable to work or telework without regard to length of service.
- Excused leave is in addition to existing rules and entitlement regarding leave, e.g. annual leave and sick leave.
- Employees may waive excused leave at partial pay (2/3 pay) and use accrued annual leave or sick leave, if applicable, during the period of excused leave.
- Employees are not required to charge absences to other accrued leave during the period of excused leave authorized by this policy.
- Any leave that an employee has taken prior to April 1, 2020 shall not be counted toward the amount of excused leave authorized by this Policy.
- An eligible employee may utilize excused leave intermittently as agreed upon by the agency and the employee. This leave must be taken in full-day increments if the

employee is not teleworking. Excused leave may be taken in partial-day increments if the employee is teleworking and by agreement between the employee and the agency.

- Employees must submit required documentation upon return to work for absences of more than 5 consecutive days.
- Employees may be required to follow reasonable notice procedures in order to continue receiving excused leave.
- Before instructing an employee who exhibits symptoms of COVID-19 to go home, the employee's supervisor or manager must notify Simone Hobbs, the Director of Human Resources first.

Leave to Care for a Child under the Emergency Family and Medical Leave Expansion Act

- Eligible to employees who have been employed for 30 days or longer.
- Employees may take up to 12 weeks of Family Medical Leave to care for a son or daughter whose school or place of care has been closed or whose child care provider is unavailable due to COVID-19 precautions and is unable to telework.
- The maximum 12 weeks of leave under this section is reduced by the amount of the FMLA leave entitlement taken in that year. If an employee has exhausted his or her 12 weeks of leave, he or she may still take 2 weeks of partial pay leave for a COVID-19 qualifying reason.
- During the first 10 work days, employees may receive excused leave at 2/3 the amount of the employee's regular rate of pay, not to exceed \$200 per day or a total of \$2,000 *or* elect to utilize accrued annual leave or compensatory time.
- After the first 10 work days, employees will be paid at 2/3 the amount of the employee's regular rate of pay, not to exceed \$200 per day or a total of \$10,000. Employees may not utilize accrued leave or compensatory time during this 10 week period.
- Employees may utilize leave to care for a child intermittently as agreed upon by the agency and the employee. This leave must be taken in full-day increments if the employee is not teleworking. Excused leave may be taken in partial-day increments if the employee is teleworking by agreement between the employee and the agency.
- For FMLA leave for care of a child, the employee must provide documentation containing the following information:

- Employee's name
- Date(s) for which leave is requested
- Oral or written statement that the Employee is unable to work because of the qualified reason for leave (in this case, care for a child)
- The name of son or daughter being cared for
- The name of the School, place of care or child care provider that has closed or become unavailable, and
- A representation that no other suitable person will be caring for the child during the period of the leave