

D.C. OFFICE OF PERSONNEL**NOTICE OF PROPOSED RULEMAKING**

The Acting Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title IV of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-604.01 *et seq.*) (2001), hereby gives notice of the intent to adopt the following rules in not less than thirty (30) days from publication of this notice in the *D.C. Register*. These rules would amend Chapter 4, *D.C. Personnel Regulations*, Organization for Personnel Management, to update the chapter. Upon adoption, these rules will amend Chapter 4 of the *D.C. Personnel Regulations*, Organization for Personnel Management, published at 32 DCR 75 (January 4, 1985) and amended at 33 DCR 4447 (July 25, 1986).

CHAPTER 4**ORGANIZATION FOR PERSONNEL MANAGEMENT**

Chapter 4 of the D.C. personnel regulations is amended as follows:

400 APPOINTMENT AFFIDAVIT

- 400.1 Each personnel authority shall designate in writing a person or persons authorized to administer the oath of office to each employee of an agency.
- 400.2 As provided in § 408 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 § 1-604.08) (2001), each covered employee of an agency shall swear or affirm to the following oath of office: "I, (employee's name), do solemnly swear (or affirm) that I will faithfully execute the laws of the United States of America and of the District of Columbia, and will, to the best of my ability, preserve, protect and defend the Constitution of the United States, and will faithfully discharge the duties of the office on which I am about to enter."
- 400.3 As part of the oath of office, each employee shall execute the following:
- (a) An affidavit stating: "I have not, nor has anyone acting in my behalf, given, transferred, promised, or paid any consideration for or in expectation or hope of receiving assistance in securing this appointment;"
and

- (b) An affidavit on the "Declaration of Appointee Form," stating: "The answers in the Declaration of Appointee are true and correct and I have read and understand the information thereon."
- 400.4 The appointee, on the "Declaration of Appointee Form," shall be required to provide information concerning the following:
- (a) Application for or receipt of an annuity under any District government civilian retirement system, or other compensation based upon District government service; and
- (b) Certification of notification of the prohibition to strike pursuant to § 1705 of the CMPA (D.C. Official Code § 1-617.05) (2001).
- 400.5 The provision in § 400.3(a) shall not be applicable to elected officials and members of boards and commissions.
- 400.6 Any individual initially appointed to the District government and any individual reappointed after a break in service of one (1) or more days shall take the oath of office and execute the appointment affidavit as soon as administratively practicable, but not later than thirty (30) days after the effective date of his or her appointment.
- 400.7 Any individual who refuses to swear or affirm to the oath of office as provided in §§ 400.2 or 400.6 shall not be appointed or shall have his or her appointment terminated.
- 400.8 The appointment of an employee may become effective before the oath of office (oath) is executed although he or she has no right to continued employment until the oath is executed. The oath, when executed, shall relate back to the date of entrance on duty so as to entitle the employee to pay from that date.
- 400.9 An individual who is retroactively restored to duty without a break in service shall not be required to execute a new appointment affidavit.
- 400.10 In the administration of the oath of office (oath), the following shall apply:
- (a) The oath may be administered on an individual or group basis;
- (b) The person administering the oath shall read the oath aloud to the appointee(s);
- (c) The appointee(s) taking the oath shall stand, raise his or her right hand, and repeat the oath aloud, except as provided in § 400.11;

- (d) The appointee(s), after taking the oath and in the presence of the person administering the oath, shall sign the appointment affidavit; and
- (e) The person administering the oath, upon signature by the appointee(s), shall sign the appointment affidavit.

- 400.11 When a group of appointees is taking the oath of office (oath), the person administering the oath may ask the appointees to swear or affirm to the oath by saying "yes" after the oath is read aloud to them.
- 400.12 The oath of office should be administered, if practicable, before the flags of the United States and District of Columbia.
- 400.13 The appointment affidavit shall be filed as a permanent record in each employee's official personnel folder and a copy filed with the employing agency.

401 VARIATIONS

- 401.1 The Director of Personnel is authorized to grant a variation from the letter of the D.C. personnel regulations (regulations) issued under the authority of the Mayor pursuant to § 404 of the CMPA (D.C. Official Code § 1-604.04) (2001) whenever there are practical difficulties and unnecessary hardships in complying with the strict letter of the regulations.
- 401.2 The Director of Personnel shall be authorized to grant a variation as specified in § 401.1 if:
- (a) Such a variation is within the spirit of the regulations;
 - (b) The efficiency of the District government is being protected and promoted; and
 - (c) The integrity of the Career, Legal, Excepted, Management Supervisory, or Executive Services, as applicable, is being protected and promoted.
- 401.3 Whenever a variation is granted, the Director of Personnel shall publish in the District Personnel Manual (or any other procedural manual developed) an issuance showing the following:
- (a) The particular practical difficulty or hardship involved;
 - (b) The variation being permitted, the difference from the requirements of the regulations, and to whom it applies;

- (c) The specific circumstances which protect or promote the efficiency of the District government and the integrity of a particular Service or Services; and
- (d) The steps that will be taken to limit the application of the variation only to the duration of the conditions that gave rise to it.

401.4 Like variations shall be granted whenever like conditions exist.

499 DEFINITIONS

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

Agency – any unit of the District government, excluding the courts, required by law, by the Mayor of the District of Columbia, or by the Council of the District of Columbia (Council) to administer any law, rule, or any regulation adopted under authority of law. The term “agency” shall also include any unit of the District government created by the reorganization of one (1) or more of the units of an agency and any unit of the District government created or organized by the Council as an agency.

Days – calendar days, unless otherwise specified.

Employee – an individual who performs a function of the District government and who receives compensation for the performance of such services.

Personnel authority – an individual or entity with the authority to administer all or part of a personnel management program as provided in § 406 of the CMPA (D.C. Official Code § 1-604.06) (2001).

Comments on these proposed regulations should be submitted, in writing, to Ms. Judy D. Banks, Acting Director of Personnel, 441 4th Street, N.W., Suite 300S, Washington, D.C. 20001, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these proposed regulations are available from the above address.