PERSONNEL MEMORANDUM NO. 6 2019-2020

TO: Executive Superintendents, Superintendents, Principals, BCO Executive Directors, BCO Deputy Directors, Chief Executives and Heads of Offices, HR Directors, School Secretaries

FROM: Tomas Hánna Chief Human Capital Officer, Division of Human Capital

RE: Special Timekeeping Codes for Exception Based Circumstances for Staff Not Reporting to Work Locations, Amended Guidance on the Excused COVID-19 Leave Code, and New Excused Absence at Partial Pay Leave

Exception Condition Regarding Those Select Employees Unable to Work from Home

As per the Chancellor’s directive issued March 21, 2020 and consistent with the Governor’s “New York State on PAUSE” plan, all DOE employees are expected to work from home except for those whose work is both (1) deemed essential to the operation of the system and (2) cannot be performed from home. While the Chancellor’s directive is in effect, this memorandum replaces the Work from Home and Alternative Work Schedules Standard Operating Procedures issued on Sunday, March 15, 2020.

It is the expectation that all employees who are working from home are still working the equivalent of their regular workhours, even if they are at home. It is understood that the roles and work that can be done from home may differ from what is traditionally performed at the office or school, especially during this time when students are not at schools. Given these constraints, supervisors have been instructed to work with their staff to identify work activities that employees can perform while they are home and for which they have the technological capacity. This may include supporting other teams and/or offices in related work.

Even with this diligent effort, there may be individual employees who absolutely cannot perform work consistent with their job title from home and whose work is not deemed essential to the operation of the system during this emergency. For those employees only, an exception can be made for them to be able to be home without a charge to their leave balances.

Payroll Memorandum #23 delineates corresponding timekeeping codes for this emergency condition which will allow such employees to continue to be paid without a charge to their leave balances.

Please be aware of the following:
- Every effort should be made to identify work consistent with the employee’s title before approving use of this time not working with pay. This does not necessarily have to be work normally performed by the employee or the office, but the work must be consistent with the employee’s job title.

- The use of the emergency excused absence/timekeeping code must be approved by the head of office.

- The use of this emergency excused absence/timekeeping code can be used for a whole day, a partial day or only certain days per week. If the employee can perform some work from home, the emergency excused absence/timekeeping code must only be used for the balance of time not worked.

- The approval for the use of this excused absence/timekeeping code may change as the designation of essential/non-essential work is subject to change and/or conditions may change the ability of an employee to work from home.

- Employees using this emergency excused absence/timekeeping code are required to complete all work assignments they receive if they have the technological capacity to perform them at home using personal equipment or equipment provided by the Department (e.g., computer, phone, internet access).

- This code is only to be used for the circumstances described above. Please refer to Personnel Memo #5 and Payroll Memo #13, as amended per below, regarding other policies and timekeeping codes including for excused COVID-19 related absences and for the use of CAR/sick time related to COVID-19 (e.g. for care of a family member). Note the timecodes and policies outlined in these memos also apply to employees who are working from home.

Employees may also be assigned, consistent with their title, to perform essential services other than at their home.

An employee who is working from home, who does not have an excused absence, and who refuses to perform assigned work which can be done remotely shall be charged accrued leave and may be subject to discipline.

**Leave for Special COVID-19 Absences**
Consistent with the Governor’s “New York State on PAUSE” plan, new federal leave requirements of the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act, and corresponding DCAS Guidance, Payroll Memorandum #13 defining Excused Absences with Pay related to COVID-19 is amended per below.

**Excused Leave at Full Pay**
Absences on or after April 1, 2020 shall be excusable and not charged to either sick or annual leave banks when the condition prevents an employee from working (including working from home/remotely) and the absence is a result of one of the following:

1) The employee is exhibiting symptoms of COVID-19:
• Symptoms of COVID-19 are:
  i) Fever (temperature above 100.4 degrees Fahrenheit or 38 degrees Celsius)
  ii) Cough
  iii) Shortness of breath (difficulty breathing)
  iv) Sore throat.

2) The employee is subject to a governmental quarantine or isolation order.

3) The employee 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.
   • This category includes employees who are at higher risk of COVID-19 infection (for example, employees who are 70 years of age or older or have a compromised immune system) and must isolate at home. They will be eligible for the COVID-19 excused absence if they cannot otherwise work from home (i.e. if the employee’s work is both (1) deemed essential to the operation of the system and (2) cannot be performed from home).

An employee who meets the conditions that qualify for the COVID-19 Excused Absence can take at least two (2) weeks of such leave as long as the qualifying conditions continue that prevent him/her from working (including working from home). If the employee's own COVID-19 symptoms have not resolved during that time and continue to prevent the employee from working (including working from home), the employee may continue to receive the COVID-19 Excused Absence until three days after all symptoms have stopped. Thereafter, time will be charged to applicable leave balances.

**Excused Leave at Partial Pay**

Effective April 1, 2020, employees, other than health care workers, are eligible for two weeks of excused leave at partial pay (two-thirds of the employee’s regular rate of pay, not to exceed $200 per day or a total of $2,000) as follows:

1) The employee is caring for an individual subject to a governmental quarantine or isolation order.

2) The employee is 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.

3) The employee is caring for their child 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.

Employees who have continuing care needs under category 3 above (care of a child) may continue that excused leave at partial pay for up to an additional ten (10) weeks for a total of up to twelve (12) weeks. This extension is only available employees who have worked at least thirty (30) days of the previous 365 days.

Employees may choose to use CAR, annual leave or sick time, as applicable, in lieu of the excused leave at partial pay.

More guidance will follow on the process to apply for the Leave at Partial Pay.
Documentation
Employees may be asked to provide documentation for any of the conditions for excused leave at full or partial pay including documentation from a health care provider or governmental order.

Questions
Questions regarding this memo may be emailed to COVIDtimekeeping@schools.nyc.gov.

This memo and policies are subject to change and do not represent permanent changes to DOE policy or procedures. If/as there are any updates, this memo will be updated accordingly.