

Ordinance No. 1335

CLASSIFIED EMPLOYEES' LEAVE ORDINANCE

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Sec. 1335-1. Amounts of leave.

(a) *Definition of immediate family:* Annual leave and sick leave for employees shall be granted and computed in accordance with the following provisions and conditions. For purposes of this chapter, the term "immediate family" shall include an employee's domestic partner as that term is defined in the city's domestic partnership ordinance.

(b) *Less than ten years of service:* Regular employees with less than ten years of service shall be granted 96 hours of annual leave and 96 hours of sick leave, prorated biweekly, each year. A year, for purposes of this chapter, is defined to mean from the first through the last pay period of each calendar year.

(c) *More than ten but less than 20 years of service:* Regular employees with more than ten but less than 20 years of service shall be granted 136 hours of annual leave and 96 hours of sick leave, prorated biweekly, per year upon completion of ten years of employment.

(d) *More than 20 years of service:* Regular employees with more than 20 years of service shall be granted 176 hours of annual leave per year and 96 hours of sick leave, prorated biweekly, per year upon completion of 20 years of employment.

(e) *Generally:* Annual leave and sick leave shall be granted in hours on a pay period basis as specified by administrative regulations prepared in accordance with this chapter. Leave shall be reduced proportionally by any part of the pay period that such employee was absent without compensation. Service time in determining number of hours to be granted shall include all time spent as an employee in the classified or unclassified service regardless of status for which compensation has been paid and time while on approved military leave for

service in the Armed Forces of the United States, provided, however, that in the event an employee, absent from his duties because of service-connected injury for which worker's compensation is payable, is certified by a city authorized treating or examining physician to be physically able to return to his duties, and fails to do so, the period between such certification and the employee's actual return to his duties shall not be deemed to be service time within the meaning of this subparagraph.

(Ord. No. 74-1997, § 1, 5-15-1974; Ord. No. 79-2174, § 2, 9-19-1979; Ord. No. 98-3125, § 1, 7-1-1998)

Sec. 1335-2. Probationary employees.

On and after January 22, 1970, upon satisfactory completion of an original probationary period and appointment to regular status, eight hours' annual leave and eight hours' sick leave will be granted for each month served as a probationary employee.

(Ord. No. 1822, § 1, 3-20-1970)

Sec. 1335-3. Provisional employees.

Persons employed on a provisional basis shall not receive annual leave or sick leave. However, employees who earned annual and sick leave time as unclassified employees and immediately following such are appointed to probationary or provisional status in the classified service are permitted to use their accrued time during their probationary or provisional status.

(Ord. No. 78-2135, § 1, 9-20-1978)

Sec. 1335-4. Special provisions for employees on military leave.

All employees shall be entitled to military leave of absence from their respective duties in accordance with the provisions of, and subject to the conditions set forth in Chapter 115, Florida Statutes, 1957. Employees holding regular status who serve in the Armed Forces with military leave of absence from the city and who return to active employment with the city in accordance with the terms of the military leave of absence, shall upon such return to employment with the city, be granted leave in the same amount as if they had been working for the city. Upon return to active employment with the city, the employee shall be paid in cash for the vacation he would have been entitled to had he not been called into military service. Such payment will be at the rate of pay received upon return to employment with the city and such vacation pay shall be charged against adjusted annual leave credit.

(Ord. No. 78-2135, § 1, 9-20-1978)

Sec. 1335-5. Accumulation or forfeiture of annual leave and sick leave.

- (a) Employees hired prior to October 1, 1978, may accumulate annual

leave and sick leave up to a total combined maximum of 2,088 hours. Any hours of leave in excess of above maximum will be forfeited on the last day of the last full pay period of the payroll year.

(b) At the end of each payroll year, employees covered by the Fraternal Order of Police (FOP), Communication Workers of America (CWA), and Classified employees not covered by a bargaining unit and known as "Others" will be allowed no more than 500 vacation hours to be accrued effective October 1, 2006; those employees covered by the Government Supervisors Association of Florida/OPEIU, Local 100 (GSA), will be allowed no more than 500 vacation hours to be accrued effective January 13, 2010; employees covered by the American Federation of State, County and Municipal Employees, Local 1554 (AFSCME) will be allowed no more than 500 vacation hours to be accrued effective July 14, 2010; employees covered by the International Association of Fire Fighters (IAFF) will be allowed no more than 460 hours for nonshift employees and 690 for 24-hour shift employees to be accrued effective October 1, 2006. Any hours of leave in excess of the above maximum will be forfeited on the last day of the last full pay period of the payroll year. (Ord. No. 2007-3573, § 1, 10-17-2007) (Ord. No. 2010-3692, § 1, 09-25-2010)

Sec. 1335-6. Transfer of sick leave to annual leave.

(a) For employees hired prior to October 1, 1978, sick leave accrued in excess of 360 hours may be used for vacation time within the limits of this chapter.

(b) For employees hired on or after October 1, 1978, except those covered by the Fraternal Order of Police (FOP), the International Association of Fire Fighters (IAFF) and Classified employees not covered by a bargaining unit and known as the group "Others," sick leave accrued in excess of 360 hours may be transferred to annual leave at the rate of two days of sick leave to one day of annual leave. At the time of resignation, retirement, termination, or death, such employee can transfer sick leave in this manner to reach a maximum of 480 hours of vacation (annual) leave. For employees covered by the International Association of Fire Fighters (IAFF) and classified employees not covered by a bargaining unit and known as the group "Others," at the time of resignation, retirement, termination, or death, such employee can transfer sick leave in this manner to reach a maximum of 580 hours of vacation (annual) leave; for employees covered by the Fraternal Order of Police (FOP), such employee can transfer sick leave in this manner to reach a maximum of 620 hours of vacation (annual) leave effective October 1, 2006. (Ord. No. 2006-3542, § 1, 12-6-2006)

Sec. 1335-7. Use of annual leave.

Vacation will be charged to annual leave time. Sick leave can be charged to annual leave time if all sick leave time has been exhausted. Religious holidays and absences due to death or illness in the immediate family will be charged to annual leave if all sick time has been exhausted. In any case, employees must comply with section 1335-8(c) of this chapter.
(Ord. No. 2001-3335, § 1, 12-19-2001)

Sec. 1335-8. Use of sick leave.

(a) Sick leave shall be used for absences because of sickness or injury, not service connected, for absences due to death or illness in the immediate family, and for religious holidays.

(b) Payment of leave for religious holidays shall be limited to high religious holidays, not otherwise provided for, and may not exceed three in any year.

(c) All employees in the service of the city shall be required to report absences from duty, not previously arranged, to their appointing officer or a designated superior within one hour after the usual time of beginning work each day that such absence occurs, unless the cause of the absence is such that it may be expected to be of considerable duration, in which case, the absence shall be reported as specified the first day, together with a statement of the approximate length of time such absence is expected to continue. Cases of absences for which compensation is claimed may be investigated by the human resources director or designee and the report of a registered physician or registered nurse of his selection may be required, stating that the employee was unable during the entire absence to perform the duties of his position and that such absence was not due to excesses on the part of the employee concerned.

All employees in positions covered by the Collective Bargaining Agreement (CBA) between the City of Miami Beach and the International Association of Fire Fighters (IAFF) will be required to present medical documentation for any sick leave incident after the third sick leave incident in the previous twelve month period. Covered employees who do not bring in medical documentation when required will not be permitted to return to work and will be on Leave Without Pay for the duration of the sick leave usage. Covered employees should refer to the Fire Departmental Standard Operating Guidelines (SOG) for further information.

(d) Holidays. When holidays, designated as such by the city council, fall within periods of sick leave or vacation with pay, no charge shall be made against the employee's leave credits for the holiday.
(Ord. No. 74-1997, § 6, 5-15-1974; Ord. No. 2008-3612, § 1, 9-17-2008)

Sec. 1335-9. Charges against annual leave and sick leave.

(a) Charges shall be made against the employee's annual leave or sick leave credits for a minimum of six minutes that the employee is absent for sickness or injury, not service connected, or because of the death or serious illness of a member of the employee's immediate family, for religious holidays, and for vacation. Twelve hours for a fireman is considered an eight-hour day.

(b) It shall be the duty of the department head in recommending payment of annual leave or sick leave, to take into account the normal days off duty of the employee concerned and to report for use of sick leave or annual leave only that time that the employee is normally required to work. It shall be considered that all employees work a 40-hour week.

(Ord. No. 76-2067, § 1, 6-3-1976)

Sec. 1335-10. Timing of vacations.

Vacations shall be granted at a time suitable to the department head and convenient to his/her work schedule as far as practicable.

(Ord. No. 83-2393, § 1, 11-16-1983)

Sec. 1335-11. Payment for annual leave.

(a) *Retirement or death:* Any earned balance of annual leave and sick leave, including credits granted in 1939 when civil service was adopted, of a regular employee who dies while an employee of the city, or who retires under the terms of any city pension plan, shall be paid to the beneficiary or employee respectively at the rate of compensation received by such regular employee at the time of his death or retirement.

(b) *Resignation or removal:*

(1) Any earned balance of annual leave and sick leave, deducting therefrom any credit granted in 1939 when civil service was adopted, of a regular employee who is removed or who resigns in good standing shall be paid to such regular employee at the rate of compensation received by such regular employee at the time of his removal or his resignation in good standing, provided that such payment shall not be made until such time as the resigned or removed regular employee shall forfeit his right to re-employment either by time limitation or by written forfeiture of all civil service rights.

(2) a. For employees hired before October 1, 1978, notwithstanding the provision of said section 1335-11(b)(1), any employee who shall involuntarily be deprived of his employment with the City of Miami Beach, due to transfer of a function of his department to the Metropolitan government, Dade County, or to

any agency of the State of Florida, or other local government, shall be entitled to an option period of 30 days during which time he may elect to transfer to the Metropolitan government, Dade County, agency of the State of Florida, or other local government any part or the entire portion of his earned annual leave and sick leave balance without forfeiture of re-employment rights provided under civil service rules of the City of Miami Beach.

b. For employee hired on or after October 1, 1978, notwithstanding the provision of said section 1335-11(b)(1), any employee who shall involuntarily be deprived of his employment with the City of Miami Beach, due to transfer of a function of his department to the Metropolitan government, Dade County, or to any agency of the State of Florida, or other local government, shall be entitled to an option period of 30 days during which time he may elect to transfer to the Metropolitan government, Dade County, agency of the State of Florida, or other local government any part or the entire portion of his earned annual leave and sick leave balance without forfeiture of re-employment rights provided under civil service rules of the City of Miami Beach. However, if the employee elects to both transfer a portion of his earned annual and sick leave and receive payment for the balance from the City of Miami Beach, the combined maximum for transfer and payment for annual leave shall be 360 hours, and the combined maximum for transfer and payment for sick leave shall be one half of balance to a maximum of 360 hours.

(c) *Maximum payment:*

(1) For employees hired before October 1, 1978, payment of annual leave and sick leave upon resignation, retirement, termination, or death of a regular employee shall in no case exceed an amount equal to one year's compensation at the rate of pay received by such regular employee at the time of his retirement, death, termination, or resignation.

(2) For employees hired on or after October 1, 1978, upon resignation, retirement, termination, or death of an employee, for those employees covered by the Fraternal Order of Police (FOP), the Communication Workers of American (CWA) and Classified employees not covered by a bargaining and known as the Group "Others," the maximum annual leave for which an employee or his beneficiary may be paid is 620 hours; and the maximum sick leave for which an employee or his beneficiary may be paid is one-half of

his sick leave balance to a maximum payment of 600 hours; for those employees covered by the Government Supervisors Association of Florida/OPEIU, Local 100 (GSA), the maximum annual leave for which an employee or his beneficiary may be paid is 620 hours effective January 13, 2010; and the maximum sick leave for which an employee or his beneficiary may be paid is one-half of his sick leave balance to a maximum payment of 600 hours effective January 13, 2010; for those employees covered by the American Federation of State, County and Municipal Employees, Local 1554 (AFSCME), the maximum annual leave for which an employee or his beneficiary may be paid is 620 hours effective July 14, 2010; and the maximum sick leave for which an employee or his beneficiary may be paid is one-half of his sick leave balance to a maximum payment of 600 hours effective July 14, 2010; for employees covered by the International Association of Fire Fighters (IAFF), the maximum amount of accrued, combined sick and vacation leave paid upon retirement, termination or death shall not exceed 820 hours for nonshift personnel and shall not exceed 1,230 hours for 24-hour shift personnel.
(Ord. No. 2010-3692, § 1, 09-25-2010)

(d) *Computation of annual leave payments:*

- (1) When a settlement is made for annual leave upon resignation, retirement, or death of an employee, payment shall be made upon the basis of the employee's hourly rate of pay for each hour of annual and sick leave credited to his account. Deduction shall be made from leave credits prior to settlement for any hours granted in advance in accordance with section 1335-12 of this chapter and not actually earned as of the date of resignation, retirement or death.
- (2) When an employee uses annual leave or sick leave, payment shall be made upon the basis of the employee's hourly rate of pay for each hour charged against his annual or sick leave account.

(Ord. No. 1738, § 1, 12-4-1968; Ord. No. 74-1997, § 9, 5-15-1974; Ord. No. 78-2135, §§ 1, 6, 9-20-1978; Ord. No. 2007-3573, § 1, 10-17-2007)

Sec. 1335-12. Other leaves with compensation.

(a) With the approval of the city council, other leaves of absence with pay may be granted by the city manager in addition to regularly allowed leave when such is recommended by the appointing officer for the purpose of promoting efficiency or other good causes.

(b) All employees, after six months of continuous service with the city,

will be entitled to use one day of bereavement leave upon the death of a member of their immediate family effective with the first pay period in 1975. Bereavement leave will increase to two days effective with the first pay period in 1976. Detailed administrative regulations defining immediate family and procedures for using bereavement leave will be issued prior to January 1, 1975.
(Ord. No. 74-2017, § 2, 12-11-1974)

Sec. 1335-13. Worker's compensation and supplemental injury pay.

(a) The city manager or the city's designated agent for the administration of the Worker's Compensation Law of the State of Florida (hereinafter referred to as "city's designated agent") shall determine whether an employee is entitled to receive worker's compensation benefits in accordance with the Worker's Compensation Law of the State of Florida, rules and regulations promulgated thereunder, and such other applicable statutes and case law. Benefits shall be paid to an employee only after a determination of entitlement to benefits has been made. Such determination of the city manager or city's designated agent is not intended to nor shall same abrogate an employee's rights under the laws governing worker's compensation in the State of Florida.

(b) An employee with probationary or regular status who is absent from duty because of injury which is the direct result of his city duties and who has been determined to be entitled to worker's compensation benefits in accordance with the foregoing subparagraph (a) of this paragraph, upon certification of the city physician and subject to the approval of the city manager, shall be entitled to receive supplemental injury pay. The initial period of entitlement shall commence with the first absence from duty as a result of the injury and shall continue during the period the employee remains absent from duty as a result of the injury, not to exceed 16 weeks. An employee may make application to the city physician for extension of supplemental injury pay for an additional 16 weeks beyond the initial period of entitlement and the city physician, subject to the approval of the city manager, may grant same provided that no such extension may be granted if worker's compensation benefits have been terminated by the city manager or city's designated agent. The maximum period of entitlement to supplemental injury pay shall be 32 weeks, after which an employee's sick leave and annual leave time may then be applied. Notwithstanding any provision in this subparagraph, supplemental injury pay benefits shall cease upon the termination of worker's compensation benefits by the city manager or the city's designated agent. Employees entitled to supplemental injury pay shall be paid an amount which is equal to the difference between their normal city pay and the amount of compensation payable under the provisions of the Worker's Compensation Law of the State of Florida. A normal day's pay shall be one tenth of the biweekly rate of pay.

(Ord. No. 79-2174, § 3, 9-19-1979)

Sec. 1335-14. Use of annual leave for purchase of pension time.

Any annual leave and sick leave in excess of the total combined maximum of 96 hours may at the request of an employee, be used for the buying back of pension time creditable service which the employee is entitled to buy. Computation of the number of hours needed to purchase back pension time will be made on the basis of the employee's rate of pay as of the date he elects to make such transfer. In such cases the personnel department will reduce the employee's balance of earned annual leave and sick leave by the number of hours required to equal the pension system contribution and will cause the amount of money to be transferred from the reserve for annual leave settlements to the pension system employee contributions fund.
(Ord. No. 1834, § 1, 6-24-1970)

Sec. 1335-15. Donation of annual leave and sick leave.

(a) *Generally.* In those instances where a permanent full-time employee is affected by a non-job related illness which causes the total depletion of their annual leave and sick leave, other city employees may donate annual and/or sick time on a pro-rata basis to that particular employee's leave balance. In the event the governor declares a state of emergency in an area which includes the City of Miami Beach, and the donated time will be used for a city employee to assist another city employee whose property has been damaged by the emergency, city employees may donate annual and/or sick time on a pro-rata basis, subject to the prior approval of the city manager.

(b) Donation of annual leave and sick leave on the death of a co-worker.

- (1) In those instances where a regular full time employee, with at least five years of service with the city and a qualified designated dependant beneficiary, dies while in the employ of the city, other city employees may donate a portion of their annual or sick leave to that particular employee's dependant.
- (2) The donating employee must maintain a balance of at least 260 combined hours of annual and sick leave.
- (3) The donated time will be computed at the donating employee's current rate of pay at the time of donation.
- (4) One check of all donations will be issued to the employee's designated dependant beneficiary. If no dependant has been specified, the funds will go to the life insurance beneficiary, if that person meets the beneficiary designation.

- (5) A designated dependant qualified beneficiary shall mean a spouse, domestic partner, dependant child, or other person that meets that definition of a dependant under Internal Revenue Service (IRS) guidelines.
 - (6) There will be a two-week period, immediately following the city's announcement of the employee's death, when employees may donate time. No donations will be accepted after that date.
 - (7) The amount of time donated by the donating employee will reduce that employee's final leave settlement.
 - (8) The donating employee donating time will be required to sign a form indicating the hours donated and that these hours will reduce his/her final leave settlement. This signed form will be retained in the donating employee's personnel file.
- (Ord. No. 92-2792, § 1, 9-2-1992; Ord. No. 2005-3471, § 1, 1-12-2005)

Sec. 1335-16. Collective bargaining contingency.

As to employees in classifications governed by union contracts, implementation of the measures hereby amended in sections 1335-5, 1335-11(c), and this section, is contingent upon collective bargaining and approval by the unions to the extent such approval is necessary. Should any inconsistencies exist between this chapter and the union contracts, then the language of the union contracts shall supersede.

(Ord. No. 2007-3573, § 1, 10-17-2007)