



# VARIANCE ON TERM APPOINTMENTS

PERSONNEL MANUAL ISSUANCE SYSTEM

**dchr**

**DISTRICT PERSONNEL  
ISSUANCE No. 2018-16**

Effective Date:  
October 23, 2018

Expiration Date:  
April 30, 2019

Related DPM Chapters:  
1, 8

# Overview

The Mayor recognizes that a significant number of District government employees in term appointments have remained in such appointments contrary to the rules found in the District of Columbia Municipal Regulations (DCMR). There are more than 500 District government employees who are on non-grant funded term appointments. Some employees have occupied those positions for more than four (4) years, and should have been separated or converted to permanent positions. This issuance provides the required notice and justification for granting a variance from Section 823 of Title 6B of the DCMR as well as the District Personnel Manual (DPM) Instruction 8-73 and authorizes the conversion of all current eligible union and non-union, term appointments to permanent Career Service appointments.



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Ventris C. Gibson, Director

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# Term Appointments

## Term Appointments

The District of Columbia government is a workforce of over 35,000 employees who occupy various types of appointments. An agency may appoint an employee to a term appointment of more than one year, and no more than four (4) years when the agency has a need for work on a time limited basis, or if the position is supported by grant funds.

Employees who have served continuously for four (4) or more years in a term appointment funded by local District government funds must be converted to a permanent position, or separated from government service.

# 6B DCMR § 823

## 6B DCMR § 823

Under the Comprehensive Merit Personnel Act, the Mayor is authorized to issue rules and regulations governing employment, advancement, and retention in the Career Service. This authorization includes the issuance of rules governing term appointments. See D.C. Official Code § 1-608.01(a) & (a)(6) (2016 Repl.).

The Mayor issued rules regarding term appointments in Section 823 of Title 6B of the DCMR. Title 6B of the DCMR § 823.1 states, “A personnel authority may make a term appointment for a period of more than one (1) year when the needs of the service so require and the employment need is for a limited period of four (4) years or less.” However, if an employee continues to serve in a term appointment for four (4) years or more, and the term appointment was acquired through open competition and not supported by grant funds, the employee must either be separated from District government service, or have his or her position converted to a permanent Career Service position (see 6B DCMR § 823.2).

Accordingly, strict application of the above cited subsections of 6B DCMR § 823 dictates that current District government employees who have occupied non-grant funded term appointments for more than four (4) years, and whose appointments were earned through open competition should either be separated or converted to permanent Career Service positions.

Given that more than 500 District government employees occupy competitive term appointments for more than four (4) years in the same position, applying this rule will demand substantial resources and disrupt service for the District and its residents if the employees occupying these appointments were suddenly separated with no immediate plan to backfill their positions.



# Basis for Variation

## Basis for Variation

The Director of the D.C. Department of Human Resources may grant a variation from the strict application of a provision within the DCMR whenever there is a practical difficulty or unnecessary hardship in complying with a regulation, when a deviation is consistent with the spirit of the regulation, when the efficiency of the District government will be protected and promoted, and when the integrity of the Career Service will be protected and promoted (see 6B DCMR § 104.1).

As of September 30, 2018, there are over 500 employees who occupy term appointments who should be in permanent Career Service appointments. Many of these employees are on term appointments that are not supported by grant funds and have exceeded the maximum four (4) year period.

Following the conversion process outlined in DPM Instruction 8-73 to convert more than 500 term appointments to permanent appointments all at one time will be logistically difficult. DCHR and other District agencies have limited resources, and converting hundreds of these employees will take away vital and significant resources from those District agencies. Moreover, these employees have continued to perform at an acceptable level, and have gained valuable experience and knowledge in their positions that are critical to the continued success of their organizations' mission and goals.

Additionally, to separate competitive term appointees who have occupied their positions for more than four (4) years, creates an unnecessary hardship. These employees work across all District agencies, and the majority of these employees occupy vital positions that protect the health and safety of the District and its residents. Separating these employees without replacements who can fill their positions in a short period of time could reduce the level of service the District and its residents receive, create unsafe and hazardous conditions for the District and its residents, and requires agencies to pay additional overtime for extra shifts worked by remaining staff.

## Basis for Variation (Continued)

Accordingly, the variance at issue is intended to convert all current term appointments to permanent Career Service appointments whose positions are not supported by grant funds; whose positions are not for a specific time limited project; and those who have served more than four (4) years in the same position. The variance would not require District agencies to follow the procedures found in DPM Instruction 8-73; rather, District agencies will only need to verify which term employees are eligible for conversion.

This variance promotes and protects the efficiency and integrity of services provided by the District government by maintaining current service levels by all District government agencies, and minimizes the amount of resources these District government agencies will need to allocate in order to complete the conversion process for all impacted employees.

District government agencies, in collaboration with DCHR, will develop a new tracking process and establish new guidelines to ensure that going forward, no non-grant funded term appointments remain in District government agencies after four (4) years. Once the four years expire, agencies must convert term appointments to permanent appointments, or separate employees occupying the term appointments in accordance with 6B DCMR § 823.

# Variance Granted

## Variance Granted

For the reasons outlined in this issuance, the Director for the Department of Human Resources waives the application of 6B DCMR § 823 and DPM Instruction 8-73 to allow the District government to begin the process of converting all current, union and non-union, non-grant funded, term appointments to permanent Career Service appointments as of November 1, 2018.





# Legal

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### Authorities

1. [D.C. Official Code § 1-608.01, Creation of Career Service](#)
2. [6B DCMR § 823, Term Appointment](#)
3. [6B DCMR § 104, Variations](#)
4. [District Personnel Manual \(DPM\) Instruction No. 8-73](#)

# Additional Information

For additional information concerning this issuance, please contact the Department of Human Resources, Human Resources Solutions Administration, by calling [\(202\) 442-9700](tel:2024429700).