

# Exempt Parity Training

The Office of Policy Development  
May 20, 2009

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## Monica Rausch, Policy Analyst

- General ORC "Clean Up"
- Vacation Dump
- Intermittent Employees
- Salary Continuation
- OIL

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## General ORC "Clean up"

- Relevant Citations:
  - ORC 124.11
  - Changed "certified" to "permanent" to reflect the newer language
- Effective Date: July 1, 2009

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## General OAC "Clean up"

- Relevant Citations:
  - ORC 124.22
  - Removes outdated language dealing with citizenship
- Effective date: July 1, 2009

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## General OAC "Clean up"

- Relevant Citations:
  - ORC 124.324
  - Clarifies that displacement rights are limited to within appointment type
- Effective date: July 1, 2009

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## General OAC "Clean up"

- Relevant Citations:
  - ORC 124.34
  - Changes rights to appeal to SPBR from a suspension or fine of 3 or more days to MORE than three days like before HB187
  - Also changes the rights of overtime exempt employees to appeal suspensions or fines of MORE than 40 hours
- Effective Date: July 1, 2009

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## General OAC “Clean up”

- Relevant Citations:
  - OAC 123:1-33-11
  - Removes outdated “certified against” language with respect to employees receiving disability benefits
- Effective date: July 1, 2009

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## General OAC “Clean up”

- Relevant Citations:
  - OAC 123:1-30-06
  - Clarifies that employees who are disability separated are not eligible for OIL or salary continuation
- Effective date: July 1, 2009

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## General OAC “Clean up”

- Relevant Citations for grammatical changes:
  - OAC 123:1-33-01, 123:1-33-02 and 123:1-33-06
- Effective date: July 1, 2009

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## Vacation Dump GONE!

- Relevant Citations:
  - ORC 124.134
- Effective date: Pay period beginning August 30, 2009

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## Vacation Dump GONE!

- Employees will start accruing the higher amounts at years 4, 9, 14, 19 and 24 to avoid the dump
- Can use vacation after probation is served
- Employees in their 4<sup>th</sup>, 9<sup>th</sup>, 14<sup>th</sup> and 24<sup>th</sup> year on August 30<sup>th</sup> will receive an additional prorated amount of vacation

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## Vacation Dump GONE!

- OAKS implications:
  - The system will be programmed to move the employee to the higher accrual automatically
  - As for the proration, HRD will be calculating and determining how this will be administered

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## Intermittent Employees

- Relevant Citations:
  - ORC 124.15, 124.181, 124.27
  - OAC 123:1-19-04 and 123:1-47-01
- Effective date: July 1, 2009

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## Intermittent Employees

Current intermittents may finish their 1000 hours in current step. No Longevity or other pay supplements as of July 1<sup>st</sup>

Upon a new appointment:

- Not eligible for longevity or any other benefits given to "permanent" employees
- Not eligible for step increases
- Eliminates requirement that work be "irregular and unpredictable"
- Shall not serve a probation

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## Intermittent Employees

- OAKS implications:
  - The system will eventually be programmed to block step movement for intermittent employees
  - System will be reviewed to prevent any supplements from being given to intermittent employees

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## Salary Continuation

- Relevant Citations:
  - ORC 124.381
  - OAC 123:1-33-17
- Effective Date: Will be set by administrative rule. Fall 2009.

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## Salary Continuation

- New program in lieu of WC
- For all workplace injuries that are not caused by a ward of the state
- 480 hours at full pay
- Approved Physician

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## Salary Continuation

- OAKS TRC for salary continuation will be created

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OIL

- Relevant Citations:
  - ORC 124.381
  - OAC 123:1-33-17
- Effective date: Current program continues, but effective date of changes will be set by administrative rule. Fall 2009.

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OIL

- Injury inflicted by a ward while in the line of duty
- 960 hours still
- If do not qualify for OIL, can apply for salary continuation

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Sara Craven, Policy Analyst

- Overtime and Comp Time
- Holiday Pay
- Disability Leave
- Sick Leave
- Leave of Absence without Pay
- Background Checks

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## Overtime/Comp Time

- Relevant Citations
  - ORC 124.18
  - OAC 123:1-43-01
  - OAC 123:1-43-02
- Effective Date: July 1, 2009

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## Overtime/Comp Time

- Comp time must be used within 365 days of the date it was earned
- Employees not eligible to accrue leave may not take comp time off in lieu of overtime

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## Overtime/Comp Time

- OAKS Implications
  - Programming for Comp Time expiration date will change to 365 days from when earned

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## Holiday Pay

- Relevant Citations
  - ORC 124.18
  - OAC 123:1-44-01
- Effective Date: July 1, 2009

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## Holiday Pay

- Part-time holiday pay
  - Frozen from July 1, 2009 – June 30, 2011
  - Entitled to 4 hrs beginning July 1, 2011 regardless of work shift and work schedule
  - During freeze, employees will get credit for 4 hours holiday for purposes of leave accrual and benefits tier

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## Holiday Pay

- Forfeiture for sick leave call-offs only applies to:
  - New Year's Day
  - Memorial Day
  - Independence Day
  - Thanksgiving Day
  - Christmas Day
- Employees who work a shift between scheduled shift and holiday shall be paid for the holiday

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## Holiday Pay

- Ex): works M-F; required to work holidays
- 1) Scheduled to work on July 4 (Fri) and calls off sick on July 3 (Thurs). No Holiday Pay.
- 2) Scheduled to work on Memorial Day (Mon) and calls off sick on May 22 (Fri). Works an unscheduled shift on Sat. Receives Holiday Pay.
- 3) Scheduled to work on Columbus Day and calls off October 13. Receives Holiday Pay.

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## Holiday Pay

- OAKS Implications
  - Rules associated with holiday pay will be updated to reflect code changes
  - A code will be created that gives credit for benefits and leave accrual but does not give the employee pay to use for the 4 hours of holiday during freeze

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## Disability Leave

- Relevant Citations
  - ORC 124.385
  - OAC 123:1-33
- Effective Date: July 1, 2009

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## Disability Leave

- Allows employees to supplement their disability leave with comp time
- Disability benefits are now paid at 67% of the employee's base rate of pay
- Claims filed on or after October 29, 2006 but before July 1, 2009 are grandfathered
- Does not restart the one-year lifetime max

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## Disability Leave

- Subsequent Claims—Unrelated
  - Unrelated claim that occurs while an employee is on disability leave is the SAME claim
  - Unrelated claim that follows a previously requested claim period is a NEW claim

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## Disability Leave

- Subsequent Claims—Related
  - Related claim that occurs beyond 6 months of employee's return to work is a NEW claim
  - Related claim that occurs before 6 months of employee's return to work is the SAME claim
  - Related claim that occurs during a RTW program is the SAME claim

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## Disability Leave

■ Examples:

- 1) In May 2009, employee takes disability for a broken arm. In late July 2009, Employee is still out on disability and needs to take disability to recover from leg surgery. Surgery claim will be paid at 70/50% rate.
- 2) In May 2009, employee takes disability for a broken arm and returns to work in June 2009. In late July 2009, Employee needs to take disability to recover from leg surgery. Surgery claim will be paid at 67% rate.

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## Disability Leave

■ Examples:

- 3) In May 2009, employee takes disability for a broken leg and returns to work in June 2009. In February 2010, employee takes disability to recover from leg surgery. Surgery claim will be paid at 67% rate.
- 4) In May 2009, employee takes disability for a broken leg and returns to work in June 2009. In August 2009, employee takes disability to recover from leg surgery. Surgery claim will be paid at 70/50% rate.

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## Disability Leave

■ Examples:

- 5) In May 2009, employee takes disability for a broken leg and begins participating in a RTW program in June 2009. In July 2009, while participating in the RTW, the employee takes disability to recover from leg surgery. Surgery claim will be paid at 70/50% rate.

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## Disability Leave

- OAKS Implications
  - New TRCs are being created to pay at 67%
  - May require new supplement codes and/or rule changes to calculate supplements at the new rate

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## Sick Leave

- Relevant Citations
  - OAC 123:1-32-01
- Effective Date: July 1, 2009

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## Sick Leave

- Hours 40-80 are paid at 70% unless:
  - Overnight hospital stay (OLD)
  - Outpatient surgery (NEW)
  - Request was made 30 calendar days in advance for prescheduled medical appointments (NEW)
    - Supplemented to 100% with available sick leave
    - Physician's statement required first day back

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## Sick Leave

- OAKS Implications
  - New TRC to capture sick leave used to supplement prescheduled appointment
  - Currently supervisor approval date is “date stamped” in system, not the date employee submitted request. Working to change Time and Labor. In meantime employees should use other documentation (such as e-mail) or get supervisor approval in system

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## Unpaid Leave of Absence

- Relevant Citations
  - OAC 123:1-34-01
- Effective Date: July 1, 2009

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## Unpaid Leave of Absence

- Employees are responsible for both shares of life insurance while on LWOP
- Only those employees who elect to continue health insurance coverage will continue to receive dental and vision

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## Unpaid Leave of Absence

- OAKS Implications
  - No changes necessary

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## Background Checks

- Committee established to review state policy, procedures, and forms related to background checks
- Contract incorporated recommendations for certain employees dealing with sensitive data
- Plans to implement a formal state policy with standardized forms, procedures and practices with flexibility to meet agency's special needs

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## Robert Patchen, Policy Analyst

- Wage Freeze
- Step Freeze
- Personal Leave Freeze
- Lump Sum Payment
- Sick Leave Credit

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## Wage Freeze

- Relevant Citations
  - ORC 124.152
- Effective Date: July 1, 2009

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## Wage Freeze

- Removing out-of-date pay tables from the statute
- Leaving only the current pay tables in the statute

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## Wage Freeze

- OAKS Implications
  - No changes necessary

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## Step Freeze

- Relevant Citations
  - ORC 124.15(G)(2)
- Effective Date: July 1, 2009

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## Step Freeze

- Moratorium from June 21, 2009 to June 20, 2011
- No retroactive step advancement after the freeze

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## Step Freeze

- Special Circumstances
  - EE's who begin probationary period before June 21, 2009 shall advance to next step at the end of probation and then become subject to the freeze
  - EE's hired, promoted, or reassigned to a higher pay range between June 21, 2009 through June 20, 2011, shall NOT move to the next step until the next anniversary of the EE's hire, promotion, or reassignment that occurs on or after June 21, 2011

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## Step Freeze

- Executive Branch Elected Officials
  - Moratorium APPLIES to EE's of the Secretary of State, Auditor of State, Treasurer of State, and the Attorney General unless the elected official notifies the Director of DAS in WRITING on or before July 1, 2009 that the office's EE's will be exempt from the freeze

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## Step Freeze

- OAKS Implications
  - Wage progression program will be turned off
  - EEs hired prior to freeze, DAS report will ID those entitled to a step, step will have to be added manually

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## Personal Leave Freeze

- Relevant Citations
  - ORC 124.386
- Effective Date: July 1, 2009

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### Personal Leave Freeze

- No personal leave credit for EE's exempt from bargaining in December 2009 and December 2010
- EE's exempt from bargaining will next receive personal leave credit in December 2011
- No retroactive grant of personal leave credit after the freeze ends
- Between now and December 2009 people who are hired as well as EEs who switch from part-time to full-time will get a prorated amount of personal leave

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### Personal Leave Freeze

- No December monetary conversion of personal leave credit in December 2009 and December 2010
- Conversion to sick leave still under review
- December conversion for personal leave credit will resume in December 2011

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### Personal Leave Freeze

- No designation of 8 hours vacation or comp time per quarter in lieu of personal leave for exempt EEs
- No change to current personal leave equalization, if EE leaves before December 1, 2009. After December 1, 2009, EE who separates is paid for remaining personal leave.

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## Personal Leave Freeze

- Executive Branch Elected Officials
  - Moratorium APPLIES to EE's of the Secretary of State, Auditor of State, Treasurer of State, and the Attorney General unless the elected official notifies the Director of DAS in WRITING on or before July 1, 2009 that the office's EE's will be exempt from the freeze

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## Personal Leave Freeze

- Supreme Court, Legislature, & LSC
  - Moratorium DOES NOT APPLY to EE's of the Supreme Court, Legislature, or Legislative Service Commission unless the appointing authority notifies the Director of DAS in WRITING on or before July 1, 2009 that the those EE's will be subject to the freeze

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## Personal Leave Freeze

- OAKS Implications
  - As necessary, OAKS will modify the programs that award personal leave credit to EE's exempt from bargaining to implement the freeze and address any exceptions to the freeze

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## Lump Sum Payment

- Relevant Citations
  - ORC 124.183
- Effective Date: August 26, 2011

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## Lump Sum Payment

- Lump sum payment only applies to EE's who receive personal leave under ORC 124.386

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## Lump Sum Payment

- "Active Payroll" is a defined term.
  - EE's in active pay status or eligible to receive pay for an approved leave of absence, including OIL, disability, or workers' comp

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## Lump Sum Payment

- Eligibility.
  - EE's in "active payroll" on July 30, 2011 shall receive the one-time lump sum payment on August 26, 2011
  - EE's not in "active payroll" on July 30, 2011 due to military leave or unpaid FMLA leave also will receive the one-time lump sum payment

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## Lump Sum Payment

- Amount.
  - Full-time eligible EE's will receive the equivalent of 32 hours of personal leave or one-half the personal leave hours the EE's lost during the personal leave freeze under ORC 124.386, whichever is less
  - Part-time eligible EE's will receive the equivalent of 16 hours of personal leave

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## Lump Sum Payment

- Elected Officials
  - The one-time lump sum payment DOES NOT APPLY to EE's of the Secretary of State, Auditor of State, Treasurer of State, Attorney General, Supreme Court, Legislature, or Legislative Service Commission unless those EE's participated in the personal leave freeze under ORC 124.386 AND the appointing authority notifies the Director of DAS in WRITING on or before July 1, 2011 that the office's EE's will receive the one-time lump sum payment

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## Lump Sum Payment

- OAKS Implications
  - It is anticipated that OAKS will run the necessary reports to identify the eligible EE's and take the steps necessary to process this payment

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## Sick Leave Credit

- Relevant Citations
  - ORC 124.382
- Effective Date: July 1, 2011

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## Sick Leave Credit

- "Active Payroll" is a defined term.
  - EE's in active pay status or eligible to receive pay for an approved leave of absence, including OIL, disability, or workers' comp
  - This is the same definition as used for the one-time lump sum payment

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## Sick Leave Credit

- Eligibility.
  - EE's in "active payroll" on June 18, 2011 shall receive the one-time sick leave credit in the pay period that begins on July 1, 2011
  - EE's not in "active payroll" on June 18, 2011 due to military leave or unpaid FMLA leave also will receive the one-time sick leave credit

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## Sick Leave Credit

- Amount.
  - Full-time eligible EE's will receive one-time sick leave credit of 32 hours or one-half the personal leave hours the EE's lost during the personal leave freeze under ORC 124.386, whichever is less
  - Part-time eligible EE's will receive a one-time sick leave credit of 16 hours

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## Sick Leave Credit

- Elected Officials
  - The one-time sick leave credit DOES NOT APPLY to EE's of the Secretary of State, Auditor of State, Treasurer of State, Attorney General, Supreme Court, Legislature, or Legislative Service Commission unless those EE's participated in the personal leave freeze under ORC 124.386 AND the appointing authority notifies the Director of DAS in WRITING on or before July 1, 2011 that the office's EE's will receive the one-time sick leave credit

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## Sick Leave Credit

- OAKS Implications
  - It is anticipated that OAKS will run the necessary reports to identify the eligible EE's and take the steps necessary to process this leave credit

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## Janine Salloum Ashanin Policy Development Administrator

- Voluntary Cost Savings Program
- Mandatory Cost Savings Program

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## Relevant Citations

- Holiday Provisions (applies to both)
  - ORC 124.18
  - OAC 123:1-44-01
- Voluntary Cost Savings Program
  - OAC 123:1-34-10
- Mandatory Cost Savings Program
  - ORC 124.392; 124.34
  - OAC New Chapter
- Effective Date: July 1, 2009

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### Voluntary and Mandatory Cost Savings Programs

- Time in a CSP shall count toward continuous service time for eligibility for dental, vision and life benefits
- If an employee takes leave pursuant to a CSP on a day that is contiguous to a holiday, the employee shall not forfeit holiday pay
- Full-time employees who participate in a CSP will maintain full-time status for purposes of leave accruals

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### Mandatory Cost Savings Program

- Already determined by statute for 2009 and 2010
- 2011 upon fiscal emergency declared by the Governor under 126.05
- In all cases administrative rules to administer the program

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### Mandatory Cost Savings Program

- Full-time Permanent (Most Employees)
  - 10 cost savings days each year 2009 and 2010
  - Prorated amount equivalent to 3.076 hours
  - Applies to anyone receiving "pay" as an employee

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## Mandatory Cost Savings Program

- Scheduling CSDs
  - Full-day increments
  - Agencies may determine how employees will schedule and set agency-specific criteria for allowing the dates chosen by exempt employees
  - No requirement to pre-schedule but agencies may decide to do so

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## Mandatory Cost Savings Days

- Scheduling CSDs (cont.)
  - Retirees must schedule a prorated amount of days approx 3.076 hours for every pay period working in the fiscal year prior to retiring; can be used immediately prior to retiring
  - EE must use CSDs before scheduling other full days of leave, employee may determine which future request to cancel

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## Mandatory Cost Savings Days

- Scheduling CSDs (cont.)
  - Blackout dates should be made in consultation with DAS
  - Minimum: email to Policy briefly explaining why dates were chosen

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## Mandatory Cost Savings Days

- **Waiting Periods**
  - When required for an employee leave or benefit program (disability, childbirth/adoption)
  - May only use as much time as has been deducted by that point in the fiscal year
  - Does not apply to Workers Comp

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## Mandatory Cost Savings Program

- **Loss of Holiday Pay**
  - 10 holidays each year 2009 and 2010
  - Prorated amount equivalent to 3.076 hours
  - Applies to anyone receiving "pay" as an employee

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## Mandatory Cost Savings Program

- **Loss of Holiday Pay (cont.)**
  - Equivalent to bu 3, 4, and 5
  - Agency Directors
  - Other groups as determined necessary in admin rule

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### Mandatory Cost Savings Program

- Equalization (Most employees)
  - If employee is PREVENTED (by agency) from taking CSD by end of fiscal year, last pay check will be adjusted.
  - Employees who separate service prior to equalization will have pay corrected or balances adjusted

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### Mandatory Cost Savings Program

- No Equalization at end of fiscal, if:
  - Overtime exempt under FLSA  
AND
    - (1) Pay range 15 or above on E-1 scale;
    - (2) Annual \$63,814 or above on E-2 scale; or
    - (3) Annual \$63,814 or above as set by Appointing Authority (E-3)
  - Salaried Employees who are more independent

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### Mandatory Cost Savings Program

- Salaried employee separations
  - Applies to both CSD and unpaid holiday employees
  - First determine prorated amount based on pay periods served during fiscal year.

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### Mandatory Cost Savings Program

- Salaried employee separations (cont.)
  - If employee leaves but hasn't taken the PRORATED amount of CSDs, no equalization  
i.e. EE does not get \$ back
  - If employee leaves but has taken MORE CSDs than PRORATED amount, deduction will be taken from final check and/or leave balances  
i.e. EE will owe because already out of workplace

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### Mandatory Cost Savings Program

- Part-time employees lose holiday pay
  - No proration
  - 4 hour credit for health care and leave accrual
- New hires' CSDs are prorated based on how many pay periods are left in fiscal year from start date

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### Mandatory Cost Savings Program

- OAKS Implications
  - CSD Bank and TRCs will be created
  - CSD hours will be seen on:
    - E-pay on June 15, 2009
    - Paystub on June 19, 2009
  - First CSD deduction will be in the check employees receive on July 2, 2009

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## Mandatory Cost Savings Program

- What agencies can do now
  - Conduct bu canvass; ask exempts days of interest (This is to gather information only)
  - Institutional agencies may begin “awarding” days if already have existing process to maintain minimal levels
  - Administrative agencies must wait for further guidance from OCB/HRD

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## Mandatory Cost Savings Program

- Future guidance
  - How to determine staffing levels and priority when reviewing multiple employee requests for the same day
    - Example: Every employee in a work unit requests the day after Thanksgiving
  - Which agencies, if any, will be permitted to determine agency-wide CSDs and the process that must be followed

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## Questions/Concerns

[www.ohio.gov/hrpolicy](http://www.ohio.gov/hrpolicy)

[DASHRD.HRPolicy@das.state.oh.us](mailto:DASHRD.HRPolicy@das.state.oh.us)

(614) 752-5393

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