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COMMISSIONER OF ADMINISTRATION

State of Louisiana

Division of Administration
Office of Human Resources

DIVISION OF ADMINISTRATION

PERSONNEL POLICY NO. 71

EFFECTIVE DATE: **October 7, 2009**

SUBJECT: **Recoupment of Employee Overpayments**

AUTHORIZATION: Barbara Goodson

Barbara Goodson, Deputy Commissioner

I. POLICY:

Unearned payments to employees are prohibited by Article 7, Section 14 of the Louisiana State Constitution which prohibits the donation of public funds. In accordance with LA Revised Statute 42:460, it is the policy of the Division of Administration (DOA) to ensure that all employees are paid accurately and that any overpayments to employees are recouped in a timely manner with minimal impact to the employee and to the DOA. Overpayments occur when compensation that is not owed to the employee is paid in error. This includes but is not limited to payments such as overpayment of wages, annual leave paid in error, as well as erroneous refunds of deductions, etc.

All employees and department staff responsible for processing pay actions into the ISIS-HR system, including time administrators, are responsible for following internal procedures and ensuring internal controls are in place to prevent overpayments to employees.

II. PURPOSE:

The purpose of this policy is to mandate internal controls which will prevent overpayments to employees and to establish procedures for recoupment of overpayments when DOA employees (active, transfers, or separated) have been overpaid.

III. APPLICABILITY:

This policy shall be applicable to all active employees in all sections within the DOA, both general and ancillary appropriations as well as all separated employees.

IV. DEFINITIONS:

Active Employee – an employee currently on the payroll of the DOA.

Conditional Offer of Employment - a conditional offer of employment is an offer of employment conditioned on the satisfaction of various requirements. Should the applicant satisfy the conditions, then the conditional offer is generally followed by an unconditional offer. If all conditions are not met, the offer may be withdrawn.

Deduction – any voluntary/involuntary reduction in gross pay (e.g., health insurance, united way, taxes).

Direct Deposit Reversal – a formal request to the financial institution which received compensation for an employee to return funds deposited into that employee's account.

Express Consent – the employee responds to the written notification, either verbally or in writing, and advises that he agrees that he has been overpaid and he agrees with the agency plan of action for the recoupment.

Gaining Agency – the agency to which the overpaid employee is transferring.

Implied Consent – the employee does not respond to the written notification within 10 working days. This implies that the employee agrees that he has been overpaid and agrees with the plan of action for the recoupment, thus implying his/her consent to the recoupment of funds.

Losing Agency – the agency from which the overpaid employee is terminating/ separating.

Net Pay – the amount of compensation due to the employee after withholding all voluntary and involuntary deductions from his wages/compensation earned.

OHR – Office of Human Resources.

Overpayment – the amount of compensation paid to an employee in error.

Recoupment – the act of recovering the compensation which was paid to the employee in error.

Separated Employee – an individual who was formerly an employee but who no longer works for the DOA.

Unconditional Offer of Employment – the offer of employment made by the section after all conditions of the Conditional Offer have been met and after a member of the OHR has called the section to make notification that the employee may be made an unconditional and concrete offer of employment.

Wage – the payment to an employee for services rendered.

V. PROCEDURE:

A. When Hiring An Employee

All prospective employees (including new hires, reemployments, transfers from other agencies and in some cases of promotion, lateral transfer, etc., current employees of the DOA) must sign a document called "Conditional Offer of Employment" which explains all of the conditions to be met prior to being made an unconditional offer of employment.

The Conditional Offer of Employment includes the signature of the applicant, acknowledging his/her receipt and understanding of this policy and, that if he/she is overpaid, the agency will follow the process in this policy in the recoupment of the overpayments.

No unconditional offer of employment will be made to any applicant/prospective employee failing to sign the Conditional Offer of Employment and meeting all of the conditions of that document.

B. Notification to Employee When Overpayment Occurs

An employee shall be notified immediately (verbally or in written or electronic form) if and when the OHR determines that an overpayment has been made. If the initial notification is verbal, it must be followed with a written confirmation. The written notification to the employee must include the following:

1) Pay date(s) on which the overpayment occurred;
2) Amount of the overpayment;
3) Reason that the overpayment occurred;
4) Agency plan of action for recoupment;
5) Employee options for reimbursement of overpayment, as appropriate;
6) Procedure employee should use if disputing any aspect of the overpayment (see D below); and
7) Instructions on how to locate this policy.

Prior to a deduction actually being made from the employee's future pay, the employee must agree that an overpayment occurred and agree to the plan for recoupment, either by express consent or implied consent (see definitions). If the employee disputes the claim of overpayment, deduction will not begin until a resolution to the dispute (see #6 above) has been reached.

C. **Recoupment of Overpayment(s)**

The amount to be recouped from any one paycheck cannot cause the employee's biweekly gross hourly wage to fall below the federal minimum wage without specific written approval from the employee.

1. **From Active Employees**

Should an overpayment be discovered for a current DOA employee, the procedures outlined in V.B. above will be followed by the OHR. The repayment options will include:

a) Direct deposit reversal; or

b) One-time deduction from a subsequent paycheck; or

c) Payment plan. Recurring deductions can be established for a period not to exceed 12 months. Any exceptions to the 12 month period must be approved by the Office of State Uniform Payroll (OSUP) and the Appointing Authority; or

d) Personal payment from employee (e.g., check or money order). Prior approval for this method of payment must be obtained from OSUP.

If an employee who has been overpaid is separating from the agency, every effort shall be made to have the procedure completed such that the amount of the overpayment may be withheld from the employee's final paycheck. If the full amount is not recovered in the final paycheck, the agency shall follow the guidelines outlined in Section C.2 or C. 4 below.

2. **From Employees Transferring from the DOA to Another State Agency**

If an employee who has been overpaid is transferring from the DOA to another state agency, and the recoupment process has not been completed, the OHR shall work with the gaining agency to assure completion of the recoupment process.

If a payment plan was not established prior to an employee transferring to the DOA, the DOA and the gaining agency will coordinate a recoupment plan.

3. **From Employees Transferring from Another State Agency to the DOA**

If an employee who has been overpaid by the losing agency is transferring to the DOA, and following receipt of notification and appropriate documentation, the OHR must continue any payment plan that was established at the losing agency.

If a payment plan was not established prior to an employee transferring into the DOA, then the losing agency and the DOA will work together to determine a recoupment plan for the employee.

4. **From Separated Employees**

Employees separated from the DOA will be notified by the OHR of any overpayments according to the guidelines outlined in Section V. B. above. Further, the written notice will include a demand for payment and should include the following repayment options:

a) One-time personal payment from employee (e.g., check or money order), or

b) Payment plan. The employee may submit multiple payments as agreed upon with the OHR and the period of recoupment may not exceed 12 months. Payment plans exceeding 12 months must have prior approval from OSUP and the appointing authority.

Should the OHR be unable to recover overpayments from a separated employee **and with the approval of the appointing authority**, the OHR will turn the matter over to the DOA Office of General Counsel for legal action.

D. **Dispute Mechanism**

The DOA will make every effort to ensure that an employee's pay is correct. However, any employee who believes he/she has been improperly paid (overpaid or underpaid) or has had funds withheld from his paycheck inappropriately, should bring this to the attention of his supervisor and/or his section head and the OHR immediately upon discovering the error. It is recommended that employees review their pay statements via Louisiana Employees Online (LEO) as early as Wednesday of the pay week to determine if pay is as expected.

Should it be determined that the DOA has underpaid an employee, the employee will be reimbursed all funds that are due him/her. Alternately, should it be determined that the employee has been overpaid, the OHR will follow the procedures outlined above to recoup the funds which were paid in error.

Once the employee has been notified of the overpayment and the options for repayment, the employee must agree that an overpayment occurred and to the method of repayment either by express consent or implied consent.

If the employee disagrees with the information provided by the OHR, he/she should contact staff of the OHR to discuss the matter. If, after a reasonable effort to resolve the matter with staff of the OHR, the employee still disputes the overpayment or the method of repayment, the employee must present the dispute of the claim in writing to the appointing authority. Information regarding the name and location of the appointing authority may be obtained from the OHR.

An employee may dispute the claim of overpayment either before a deduction to his salary has begun or after the deduction has begun.

No deduction will be made to the employee's salary or an ongoing deduction will cease until a resolution to the dispute has been reached.

VI. RESPONSIBILITIES:

Deputy/Assistant Commissioners and equivalent are responsible for:

Holding section heads under their supervision accountable for adhering to all aspects of this policy.

Section Heads are responsible for:

Ensuring that every employee of his/her section as well as every applicant made a conditional offer of employment is made aware of this policy.

Ensuring that no applicant is given an unconditional offer of employment and that no applicant reports to work until and unless the section has been notified by OHR that the prospective employee has met all the conditions set forth in the Conditional Offer of Employment.

Developing, maintaining, and following internal procedures which ensure that an employee's time is entered and reported correctly.

Notifying the OHR, as soon as practical, of any pending separations (terminations and resignations), and transfers.

Notifying the applicable employee, as well as that employee's supervisor and staff of the OHR, as soon as practical, of any known overpayment made to an employee and working with the employee and the OHR to establish repayment terms.

Holding managers/supervisors accountable for adherence to all aspects of this policy.

Managers/Supervisors are responsible for:

Complying with this policy as instructed by the section head.

Notifying his/her supervisor and/or the section head, and staff of the OHR when he/she becomes aware of or suspects that an overpayment has been made and then cooperating in establishing a repayment plan.

Office of Human Resources is responsible for:

Ensuring that all personnel actions affecting pay are processed accurately and in accordance with pay rules for the various types of employees and officials served by the office.

Notifying an appropriate individual in the section as soon as possible when and if an applicant has met all of the conditions of the Conditional Offer of Employment and may be made an unconditional or concrete offer of employment.

Notifying an employee that he/she has been overpaid, explaining how the overpayment occurred, and working with the employee in establishing a repayment plan. If the initial notice to the employee is verbal, OHR must follow up with a written notification.

Following the procedures of the Office of State Uniform Payroll (OSUP) as they relate to direct deposit reversals, transferring funds received between agencies, and reporting of accounts receivable.

Securing the signature of the applicant on the Conditional Offer of Employment form.

Maintaining the Conditional Offer of Employment form.

Time Administrators are responsible for:

Following all procedures intended to ensure the accurate input of employees' time.

Alerting the section head and/or the OHR when he/she believes that an employee has been paid incorrectly.

Alerting the section head of any problem with the timekeeping process.

Employees are responsible for:

Complying with all aspects of this policy.

Immediately notifying his/her supervisor and/or the section head as well as staff of the OHR upon becoming aware of an overpayment or the possibility of an overpayment.

Working with staff of the OHR in establishing a repayment plan.

Using the dispute mechanism described in this policy when he does not agree with the notification of overpayment or with the plan for recoupment.

General Counsel is responsible for:

Taking the appropriate legal action to recoup the overpaid money when so directed by the Appointing Authority.

VII. EXCEPTIONS:

Requests from the employee for exceptions to this policy should be submitted to the Appointing Authority through the OHR. Documentation should include:

1) Name and title of the employee making the request for exception;
2) Section in which he/she is employed;
3) Amount of the overpayment;
4) Circumstances creating the overpayment;
5) Documentation which includes the reasons the employee believes that some or all of the overpaid money should not be recouped or why the money recouped should be repaid to the employee.

Any exception must have the written approval of the Appointing Authority or his/her delegated representative.

VIII. QUESTIONS:

Questions regarding this policy should be directed to the Office of Human Resources.

IX. VIOLATIONS:

Any employee found to have violated this policy will be subject to disciplinary action, up to and including termination.