

## **Q & A on CDD Comp Time**

January 23, 2002

### ***Q. What is the new CDD comp day policy?***

For many years, CDD attorneys have received paid health and other benefits during use of accumulated comp days in conjunction with extended unpaid leave. On January 7, 2002, the Society issued a memo to staff stating that “[a]ll Comp Time applied toward any type of paid or unpaid leave lasting more than ten business days will be paid as a lump sum.”

### ***Q. What does that mean in practice?***

The meaning of this policy is not entirely clear.

Attorneys who use comp days in conjunction with long-term unpaid leave will be charged for the cost of health benefit premiums for that specific period. Thus, as we understand it, an attorney who takes a paid parental leave in conjunction with 30 vacation days and 30 comp days would be charged for the cost of health benefits during at least some of the final 30 days.

Notwithstanding the policy’s plain language, however, there is conflicting information about whether it will apply to an attorney who uses comp days in conjunction with a short-term leave lasting more than ten days—e.g., less than 30 days total.

### ***Q. Why has this come up now?***

On January 14, Theresa DeLeon, LAS Chief Operating Officer, informed the ALAA Executive Board that this policy was being implemented in the context of a \$4.6 million CDD/CAB budget deficit due to: (1) Elimination of state funding for the Parole Revocation Defense Unit (\$1.3 million); (2) The city’s failure to provide cost of living funds for collective bargaining (\$2.7 million); and (3) \$600,000 unrealized attrition.

### ***Q. How has ALAA responded to the new policy?***

The Union’s call for withdrawal of the policy has been strongly voiced, *inter alia*, at a January 14 meeting with Theresa DeLeon; in a January 16 union-wide grievance (supplemented by CDD boro grievances); and in a January 17 meeting between ALAA President Michael Letwin, ALAA Secretary-Treasurer Charlotte Hitchcock, and Theresa DeLeon.

ALAA has also asked Management to: (1) Provide staff with a written report on the above deficit; (2) Clarify the meaning of the new policy; (3) Detail anticipated savings from the new CDD comp day policy and of any other measures (including those that affect management personnel); and (4) Address both the budget and the new comp policy at the Delegate Council

on Thursday, January 24.

***Q. What about legal action?***

ALAA legal action is democratically decided by the Delegate Council, based on advice of counsel. Union counsel will address the following questions at this Thursday's Delegate Council meeting:

- Does the new policy violate the CBA, particularly since the contract specifies that “[a]ccumulated days may be taken as vacation”?;
- If not, does the NLRA [National Labor Relations Act] require LAS to bargain before imposing the new policy? If so, is there a remedy that would ultimately prevent LAS from unilaterally implementing it?;
- Does this change violate any other statute (e.g., FMLA [Family Medical Leave Act])? If so, what is the proper forum and remedy?;
- Do individual attorneys have a detrimental reliance claim for having used up vacation days (which continue to carry paid benefits) rather than comp days?;
- What is the likelihood of preliminary injunctive relief against the policy?; and
- If the new policy is successfully challenged on one or more of the above grounds, does our contract language permit LAS to otherwise limit or restrict comp time?

***Q. Who can participate in the Delegate Council meeting?***

All Union members are encouraged to attend and participate in Delegate Council discussions; as a representative body, only elected members (delegates and officers) may vote. DC meetings are governed by Roberts Rules of Order.