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THE MILE HIGH CITY

Career Service Rules

City and County of Denver

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The Denver Career Service Rules do not create or constitute any contractual rights between or among the City and County of Denver, the Career Service Board, the Career Service Authority and any employee or applicant for employment. The Denver Career Service Rules may only be modified, rescinded, or revised, in writing, by the Career Service Board, which reserves the right to unilaterally modify, rescind, or revise the rules at any time consistent with its rule-making process.

Revised February 10, 2012

Career Service Rules
Table of Contents

RULE 1
DEFINITIONS

These definitions shall apply wherever the following terms are used in the personnel rules:

Administrative class:

A class in which the duties and responsibilities meet the following criteria:

A. Performance of office or non-manual work directly related to management policies or general business operations; and

B. Regular exercise of discretion and independent judgment; and

C. 1 Regular and direct assistance to a bona fide executive or administrator; or

2, Performance, under only general supervision, of work along specialized or technical lines requiring special training, experience, or knowledge; or

3. Execution, under only general supervision, of special assignments and tasks; and

D. No more than 20% of hours worked in a work week are devoted to activities which are not directly and closely related to the performance of the work in paragraph a) through c) above (Effective May 1, 1974; Rule Revision Memo 83A).

Agency:

A unit of government identified by a "fund organization" number in an appropriation ordinance (Effective December 15, 1988; Rule Revision Memo 118B).

Appointing authority:

A municipal official designated by the annual appropriation ordinance to approve expenditures for a given appropriation; hence the official authorized to appoint employees to be paid from such appropriation. Such an official may designate an agent to act for him as an appointing authority (Effective May 16, 1956; Rule Revision Memo 16A).

Appropriation:

An authorization by the City Council to a specified agency to expend a specified sum of money from a specified fund during a specified period for a specified purpose (Effective May 16, 1956; Rule Revision Memo 16A).

Appropriation sub-account:

Includes all divisions of appropriations recognized by the Office of Budget and Management, up to and including the lowest level of the account code at which expenditures and revenues are recorded, the tracking level (Effective March 19, 2004, Rule Revision Memo 247B).

Break in service:

Any lapse of working time between the official separation of an employee and his subsequent re-hiring (Effective May 16, 1956; Rule Revision Memo 16A).

Career Service:

All employees of the City and their positions subject to the exceptions in the City Charter (relevant sections have been attached as an appendix to Rule 5 **APPOINTMENTS AND STATUS**) (Effective June 8, 2007; Rule Revision Memo 19C).

Career Service Board:

The board created by the Denver City Charter to direct the Career Service (Effective August 15, 1979; Rule Revision Memo 113A).

Career Service employee:

The incumbent of a position in the Career Service (Effective May 16, 1956; Rule Revision Memo 16A).

Career status:

The status of a Career Service employee who has satisfactorily completed an employment probationary period or who has been re-instated after lay-off (Effective September 18, 1980, Rule Revision Memo 127A).

City:

City and County of Denver (Effective December 15, 1988; Rule Revision Memo 118B).

Class series:

The arrangement in sequence of classes that are alike in the kind but not in level. For the purposes of lay-off, a class series shall include first line supervisors and lead workers, if so designated for the class series (Effective May 16, 1956, Rule Revision Memo 16A; Revised March 19, 2004, Rule Revision Memo 247B).

Continuous service date:

The effective date of an employment appointment or a re-employment appointment in the career service, whichever is later; or the effective date of appointment from a re-instatement list plus credits for service prior to lay-off. This definition does not affect employee rights to paid time off, sick leave and vacation leave as established in the Revised Municipal Code or the Career Service Rules (Revised January 1, 2010; Rule Revision Memo 42C).

Disabled individual:

An individual who (1) has a physical or mental impairment which substantially limits one or more major life functions; or (2) has a record of such impairment; or (3) is regarded as having such an impairment; or (4) has begun or successfully completed a supervised drug rehabilitation program and is no longer engaged in the illegal use of drugs (Effective January 1, 1993; Rule Revision Memo 160B).

Documented performance:

A verifiable assessment of an individual's work performance, including PEPR ratings, disciplinary actions, and safety violations (Effective March 19, 2004; Rule Revision Memo 247B).

Domestic Partner:

An unmarried adult, unrelated by blood (closer than would prohibit marriage in Colorado pursuant to the Colorado Revised Statutes); with whom an unmarried employee has an exclusive committed relationship, maintains a mutual residence and shares basic living expenses (Effective March 16, 1995; Rule Revision Memo 178B).

Effective date:

The date when a personnel action takes effect (Revised May 7, 2012; Rule Revision Memo 62C).

Employment appointment:

One which is made as the result of referral from an employment list (Effective January 20, 2012; Rule Revision Memo 57C).

Employment probationary status:

The initial status of an employee receiving an employment appointment or a re-employment appointment (Effective September 18, 1980; Rule Revision Memo 127A).

Entry level professional class:

Any class where the principal minimum qualifications for education and experience are a college degree and no experience. These are identified as entry level by the word "staff" as part of the title (Effective September 1, 1989; Rule Revision Memo 129B).

Executive class:

A class in which the duties and responsibilities meet the following criteria:

A. Primary duty consists of the management of the agency or appropriation account, or of a customarily recognized subdivision or section thereof; and

B. Regular direction of the work of two or more other employees therein, and

C. Authority to hire or fire other employees, or suggestions or recommendations as to the advancement and promotion or any other change of status of other employees will be given particular weight, and

D. Regular exercise of discretionary powers, and

E. No more than 20% of hours worked in a work week are devoted to activities which are not directly and closely related to the performance of the work described in paragraphs a) through d) above; provided that this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated establishment (Effective May 1, 1974; Rule Revision Memo 83A).

Fringe benefits:

Paid time off, vacation leave, holiday leave, sick leave, payments for injuries or sickness received in the line of duty, health insurance, life insurance, pensions, termination pay, uniform and equipment allowances, dependents' benefits, longevity pay, and any other financial or economic benefits which are found by the Office of Human Resources to be the prevailing practice in the Denver metropolitan area (Revised January 1, 2010; Rule Revision Memo 42C).

Full-time position:

One in which the employee is scheduled to work forty (40) hours per week or is scheduled to work eighty (80) hours in two (2) weeks under an authorized special work schedule (Effective September 18, 1980; Rule Revision Memo 127A).

Immediate family:

Husband, wife, son, daughter, mother, father, grandmother, grandfather, grandchildren, brother, sister, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, domestic partner, and the mother, father, son, daughter, brother, or sister of the domestic partner, as well as minor children for whom the employee or the employee's domestic partner provide day-to-day care and financial support (Effective March 16, 1995; Rule Revision Memo 178B).

Incumbent:

The current occupant of a position in the Career Service (Effective May 16, 1956; Rule Revision Memo 16A).

Lay-off:

The involuntary separation of a career status unlimited employee, or a limited employee appointed prior to January 16, 2004, resulting from the abolishment of a position (Effective September 18, 1980; Rule Revision Memo 127A; Revised March 19, 2004;, Rule Revision Memo 247B).

Lay-off unit:

An appropriation account, appropriation sub-account, combinations of appropriation sub-accounts, or combinations of appropriation accounts for the purposes of lay-off (Effective November 1, 1979; Rule Revision Memo 115A: Revised March 19, 2004; Rule Revision Memo 247B).

Leave:

An authorized absence from regularly scheduled work hours which has been approved by proper authority (Effective May 16, 1956; Rule Revision Memo 16A).

Length of Service:

Total number of years, months and days of continuous service, (for examination purposes) including time an employee is on authorized leave of absence without pay, but exclusive of service in non-career status positions (Effective December 15, 1988; Rule Revision Memo 118B; Revised March 19, 2004, Rule Revision Memo 247B).

Limited position:

One which has a specified ending date (Effective September 18, 1980; Rule Revision Memo 127A).

Month of service:

The period of time between a given date in one month and the preceding day in the following month (e.g., April 16 through May 15) (Effective October 12, 1981; Rule Revision Memo 19B).

Non-career status:

The status of an employee who is appointed to an on-call position. Non-career status employees do not serve a probationary period (Effective June 8, 2007; Rule Revision Memo 19C).

Office of Human Resources:

The agency created by the Denver Revised Municipal Code to administer the Career Service (Effective January 7, 2013, Rule Revision Memo 1D).

On-call position:

A position in which the incumbent works as needed. On-call positions may have routine or variable work patterns and are generally filled to accommodate seasonal or short term activities in various city agencies (Effective June 8, 2007; Rule Revision Memo 19C).

Part-time position:

One in which an employee is scheduled to work less than forty (40) hours per week (Effective September 18, 1980; Rule Revision Memo 127A).

Probationary period:

A period of time following employment appointment, promotional appointment, or re-employment which is a work-test period for the employee, and during which the employee is on a trial basis (Effective September 18, 1980; Rule Revision Memo 127A).

Professional class:

A class in which the duties and responsibilities meet the following criteria:

A. Primary duties consist of the performance of:

1. Work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes; or

2. Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee; or (Effective March 2, 1982; Rule Revision Memo 30B)

3. Teaching, tutoring, instructing, or lecturing in the activity or imparting knowledge, as a teacher in the school system or educational establishment or institution; and

B. Work requires the consistent exercise of discretion and judgment in its performance; and

C. Work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

D. No more than 20% of hours worked in the work week are devoted to activities which are not an essential part of and necessarily incident to work described in paragraphs a) through c) above.
(Effective May 1, 1974; Rule Revision Memo 83A).

Promotional probationary status:

The initial status of an employee receiving a promotional appointment (Effective September 18, 1980; Rule Revision Memo 127A).

Re-assignment:

The change of duties of an employee in a position in a class or the movement of an employee from a position in the same class within the same agency or within consolidated appropriation accounts.

Re-instatement List:

Employees shall be placed on the re-instatement list for the classification they have been laid off from, demoted in lieu of lay-off from, or have voluntarily resigned or voluntarily demoted in lieu of lay-off from. The re-instatement list shall only be used within the Lay-off Unit the employee was in when the lay-off took place (Effective May 4, 2007; Rule Revision Memo 18C).

Return from promotional probation:

Change of a career status employee serving promotional probation to a position in the class from which promoted within the agency from which promoted (Effective December 3, 1981; Rule Revision Memo 25B).

Serious health condition:

An illness, injury, impairment or physical or mental condition, which involves inpatient care in a hospital, hospice or residential medical care facility or continuing treatment by a health care provider (Effective February 8, 2005; Rule Revision Memo 257B).

Sexual harassment:

Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when:

A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

C. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive environment (Effective March 22, 1984; Rule Revision Memo 60B).

Staggered work schedule:

The assignment of differing reporting times to individual employees (Effective November 14, 1978; Rule Revision Memo 104A).

Unlimited position:

One which has no specified ending date (Effective September 18, 1980; Rule Revision Memo 127A).

Workmen's compensation:

Benefits received by an employee who is injured while carrying out his work assignment as determined by the Workmen's Compensation Act of Colorado (Effective May 16, 1956; Rule Revision Memo 16A).

RULE 2
OFFICE OF HUMAN RESOURCES

(Effective December 23, 2005; Rule Revision Memo 1C)

Purpose statement:

The purpose of this rule is to establish how the Career Service Board ("Board") will carry out its duties provided for under the authority of the City Charter and the Denver Revised Municipal Code.

Section 2-10 Career Service Board

2-11 Officers and Duties

A. Duties and Organization of the Board:

1. The five-member Board shall foster and maintain a merit-based personnel system for the Career Service and shall be committed to equal employment opportunity in accordance with the City Charter and the Denver Revised Municipal Code. The Board shall carry out all other duties delegated by the Denver Revised Municipal Code or ordinance.

2. The Board's primary functions are to oversee the Office of Human Resources ("OHR"), oversee the Career Service Hearing Office, and serve as a quasi-judicial body to decide appeals of decisions of the Career Service Hearing Officers ("Hearing Officers").

3. The Board shall have two Co-Chairpersons who shall be elected on an annual basis from the members of the Board.

B. The Board is responsible for adopting, administering and enforcing rules necessary to foster and maintain this merit-based personnel system including, but not limited to rules providing:

1. For the conduct of competitive examinations of competence (Rule 3 **RECRUITMENT**);

2. That appointments and promotions of employees in the Career Service shall be made on the basis of merit and ability (Rule 3 **RECRUITMENT**);

3. For probationary periods (Rule 5 **APPOINTMENTS AND STATUS**);

4. For like pay for like work (Rule 7 **CLASSIFICATION**);

5. For the payment of generally prevailing compensation and benefits to Career Service employees (Rule 8 **COMPENSATION**);

6. For equal employment opportunity without regard to race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation or any other status protected by federal, state or local laws (Rule 15 **CODE OF CONDUCT**);

7. That dismissals, suspensions or disciplinary demotions of non-probationary employees in the Career Service shall be made only for cause, including the good of the service (Rule 16 **DISCIPLINE AND DISMISSAL**);

8. For grievance procedures (Rule 18 **DISPUTE RESOLUTION**); and

9. For appeals from actions of appointing authorities (Rule 19 **APPEALS**). (Revised January 22, 2010; Rule Revision Memo 44C)

C. Duties of the Co-Chairpersons:

1. One of the Co-Chairpersons shall preside at all meetings of the Board and each Co-Chairperson shall perform such other duties as may be assigned or delegated by the Board, but shall have no authority to act on behalf of the Board or in its name in any respect whatever except by special authorization of the Board. Such authorization shall be entered in the minutes of the Board meeting where such authorization was given.

2. The Co-Chairpersons may vote on all questions before the Board.

3. The Board shall designate, at its discretion, which Co-Chairperson shall have primary responsibility for presiding at Board meetings. In the absence of the Co-Chairperson assigned to preside, the other Co-Chairperson shall preside.

4. If neither Co-Chairperson is present, the remaining members of the Board shall designate a Chairperson pro tem.

D. Minutes and Record-Keeping:

1. The minutes of all meetings of the Board, and all correspondence, documents and files relating to the business of the Board shall be kept in accordance with applicable state and local records retention requirements.

2. The OHR Executive Director shall be the official custodian of all such correspondence, documents and files.

E. Appointments:

The Board is responsible for appointing and overseeing the OHR Executive Director, Hearing Officers, and other appointees as allowed by the City Charter and Denver Revised Municipal Code.

2-12 Meetings

A. Meetings:

1. The Board shall meet on the first and third Thursdays of the month, or as deemed necessary by the Board.

2. In addition, the OHR Executive Director may call special meetings of the Board when directed to do so by a Co-Chairperson or by two or more members of the Board or when the OHR Executive Director deems it necessary.

3. All meetings shall be public in accordance with the open meetings requirements of the Denver Revised Municipal Code, unless an executive session or private meeting is otherwise authorized.

B. Quorum:

The presence of at least three Board members shall be required at a Board meeting before the Board can transact business legally. No action or order of the Board shall be valid unless concurred in by at least three members of the Board. Board members shall be considered present at a Board meeting if physically present at the meeting, or if participating remotely to the extent that the Board member can hear Board proceedings and be heard by those at the Board meeting simultaneously.

C. Notice:

1. Advance notice of all public meetings of the Board shall be given in accordance with the open meetings requirements of the Denver Revised Municipal Code. Such notice shall be posted at least forty-eight (48) hours in advance of such meetings.

2. Such notice shall be posted in the public area of the OHR and on a bulletin board provided for such notices on the first floor of the City and County Building.

3. The notice shall include the date, time and place of the meeting and a general description of the subject or subjects to be discussed. No subjects other than those specified in the notice may be addressed.

4. The Board may cancel any meeting without notice if there is insufficient business to warrant a meeting, or if there is the absence of a quorum.

D. Disqualification of a Board Member:

1. Members of the Board shall disqualify themselves in any proceeding in which the Board member's impartiality might be reasonably questioned, including but not limited to, instances where the Board member:

   a. Has a personal bias or prejudice concerning a party, or personal knowledge of disputed facts concerning the matter;

   b. Served as an attorney or witness in the matter;

   c. Is likely to be a material witness in the matter; or

   d. Has a pecuniary or non-pecuniary interest that could be substantially affected by the outcome of the proceeding.

2. Members of the Board may disqualify themselves at any time for any other good reason.

2-13 Communications with the Board

A. Written communications and requests to the Board shall be directed to the OHR Executive Director or to one of the Co-Chairpersons.

B. Such written communications or requests shall be provided to all members of the Board.

C. If any action is taken as a result of a written communication to the Board, notice of such action shall be given the individual or agency concerned.

D. Verbal communications to the Board will be allowed during scheduled meetings of the Board or as otherwise directed by the Board.

2-14 Pilot Programs

The Board may authorize the OHR Executive Director to implement new and innovative compensation/performance management programs on a pilot basis within selected agencies. If the pilot program achieves its objectives, the Board may approve citywide implementation of the new policy or rule. If the pilot program does not achieve its objectives, the Board may end the program.

2-15 Investigations by the Board

The Board or its designee may, at its discretion or as requested by any City department or agency, conduct personnel–related investigations. The Board has the authority under the City Charter to issue subpoenas as may be necessary to conduct an investigation.

Section 2-20 Adoption, Amendment or Repeal of Career Service Rules ("Rules")

A. Changes to the Rules may be proposed by appointing authorities, employees, or other interested citizens. Such proposals shall be in writing and shall be directed to the OHR Executive Director or one of the Board Co-Chairpersons.

B. When the Board or the OHR Executive Director considers that a change in the Rules is necessary or desirable, the procedure shall be as follows:

1. The OHR Executive Director shall submit to the City Attorney the proposed rule change for review, including a ruling as to legality, at any time prior to posting for public comment by the Board and before final publication.

2. The proposed rule change shall be posted on bulletin boards and made available to appointing authorities, employees, and the general public for comments and suggestions. A short summary of the proposed rule change shall be posted with the proposed rule change.

3. A final proposed rule change, incorporating comments received during the public comment period which are deemed appropriate by the OHR Executive Director shall be posted with the Board Agenda for the meeting in which the public hearing will be held.

4. A public hearing on the proposed rule change shall be held by the Board.

5. The Board shall then accept, reject or modify the proposed rule change. If the Board modifies a proposed rule change, the Board need not re-post the rule for public comment unless the Board, in its own discretion, determines that reposting is necessary.

6. When a rule is adopted, amended or repealed by the Board, such rule shall be made available to appointing authorities, employees and the public as promptly as possible.

7. The effective date of the rule change shall not be more than thirty (30) days after the date of adoption, amendment or repeal by the Board unless another date is designated by the Board.

8. The following changes to the Rules may be made by the OHR Executive Director without following the above-stated procedure: re-numeration; spelling and typographical error corrections; and revision and updating of internal references, appendices, and/or table of contents. Such changes may be published as administrative changes without the approval of the Board.

Section 2-30 Public Hearings by the Board

2-31 Types of Public Hearings

A. Mandatory Public Hearings: The Board shall hold a public hearing on the following:

1. Proposed changes to classification titles and/or attendant pay rates covered by the classification and pay plan resulting from:

   a. Annual pay survey recommendations; or

   b. Normal maintenance and administration of the classification and pay plan and classifications attendant to it (Effective May 3, 2006; Rule Revision Memo 8C).

2. Proposed changes to employee benefits prior to the OHR Executive Director making any recommendations to the Mayor and City Council as provided in the Denver Revised Municipal Code;

3. Adoption, amendment or repeal of a fund consolidation or de-consolidation for lay-off purposes;

4. Determination of prevailing wages, in accordance with the Denver Revised Municipal Code;

5. Adoption, amendment or repeal of a rule, except for changes that are administrative.

B. Discretionary Public hearings: The Board may hold a public hearing, at its discretion, on any matter within the jurisdiction of the Board.

2-32 Notice and Conduct

A. Notice of Hearings:

1. Notice of public hearings by the Board shall be given at least thirteen (13) calendar days in advance of the hearing, and shall state the time, date, place, and subject of the hearing, who may be heard, and how to arrange to be heard.

2. Such notice shall be posted in the public area of the OHR and on a bulletin board provided for such notices on the first floor of the City and County Building.

B. Special Additional Notice Requirements:

1. When the subject of a hearing is proposed fund consolidations or de-consolidations for purposes of lay-off, the department or agency affected by the proposed consolidation or de-consolidation shall post the notices in such locations that employees affected by the consolidation or de-consolidation shall be given reasonable notice of the time, date, place and subject of the hearing.

2. When the subject of a hearing is a proposed pay plan adjustment or a proposed rule change, the OHR shall provide electronic or facsimile copies of the notice of public hearing to appointing authorities who shall post such notices in conspicuous locations in the work places.

C. Conduct of Hearings by the Board:

1. Persons wishing to speak at a hearing shall have their names placed on the agenda in advance of the hearing. The Board, in its discretion, may, at any time, admit more speakers preceding or during the hearing. The Board may, in its discretion, place reasonable limitations on the hearing.

2. Proceedings of a mandatory hearing shall be recorded and retained for a period of six (6) years, but need not be transcribed unless required in litigation. If a transcript is required, the party requesting the transcript shall pay the costs.

3. In the discretion of the Board, hearings may be continued for good and sufficient cause.

Section 2-40 OHR Executive Director

A. Powers and Duties:

The OHR Executive Director shall serve at the pleasure of the Board, report directly to the Board, and perform all duties and responsibilities as directed by the Board, including those contained in the Rules, and as delegated by the Denver Revised Municipal Code. In addition, the OHR Executive Director's powers and duties are:

1. To interpret and enforce the Rules adopted by the Board in such a manner as to promote and maintain the principles of a merit-based personnel system and the just, speedy and effective resolution of disputes (Revised January 22, 2010; Rule Revision Memo 44C);

2. To prepare and hold examinations, pass upon qualifications of applicants, establish eligible lists and refer eligible applicants to appointing authorities to fill vacancies;

3. To establish and maintain a roster of all Career Service employees;

4. To establish and maintain such records, forms and procedures as necessary to control personnel transactions;

5. To consider suggestions from appointing authorities, the public, and employees or their representatives, pertaining to any phase of the personnel program;

6. To delegate to a designee such duties as, in his/her opinion are appropriate, unless otherwise specifically provided in these rules;

7. To administer the Tuition Refund Program in accordance with the Denver Revised Municipal Code; and

8. To perform such other duties as may be necessary to foster and maintain a merit-based personnel system for the Career Service, further equal employment opportunity, or otherwise ensure the efficient operation of OHR.

B. Normal Working Hours:

The OHR Executive Director shall keep the OHR open for business from 8:00 a.m. to 5:00 p.m. Monday through Friday of each week, holidays excepted, unless good cause warrants a temporary or permanent change.

C. Acting OHR Executive Director:

1. When the OHR Executive Director is going to be absent for sixty (60) days or less, the OHR Executive Director shall designate a suitable and competent person as acting OHR Executive Director, unless the Board elects to designate one instead.

2. If the absence is going to be more than sixty (60) days, the Board shall designate an acting OHR Executive Director.

APPENDIX 2.A.

RELEVANT PROVISIONS FROM THE CITY CHARTER, ARTICLE IX, EMPLOYMENT, PART 1, CAREER SERVICE

§ 9.1.1 Career Service personnel system.

A. There shall be and is hereby created a Career Service personnel system, which shall be directed by a Career Service Board of five members appointed by the Mayor and confirmed by the City Council for staggered terms fixed by ordinance. The Board shall, pursuant to its own rulemaking procedures, adopt, administer and enforce rules necessary to foster and maintain a merit-based personnel system according to the principles set forth in this Part 1, including but not limited to rules concerning the conduct of competitive examinations of competence, probationary periods, grievance procedures, and appeals from actions of appointing authorities to the Board and any hearing officers appointed by the Board. The Board and any hearing officers appointed by the Board shall have the power to issue subpoenas. The Board shall perform such other duties in relation to the Career Service personnel system as may be assigned by ordinance consistent with this Charter.

B. All appointments and promotions of employees in the Career Service shall be made solely on the basis of merit and ability. Dismissals, suspensions or disciplinary demotions of non-probationary employees in the Career Service shall be made only for cause, including the good of the service. The Career Service personnel system shall provide for equal employment opportunity without regard to race, color, creed, national origin, gender, sexual orientation, age, disability, or political affiliation or any other status protected by federal, state or local laws.

This Appendix is provided for informational purposes and is not considered a part of the Rules.

APPENDIX 2.B.

RELEVANT PROVISIONS FROM THE DENVER REVISED MUNICIPAL CODE, CHAPTER 18, EMPLOYEE AND OFFICER BENEFITS, ARTICLE I, OFFICE OF HUMAN RESOURCES

Sec. 18-1. Office of Human Resources created.

There shall be and hereby is created an Office of Human Resources which shall be the central human resources agency for City employees in the Career Service personnel system. The Office of Human Resources shall be directed by the Career Service Board and the Office of Human Resources Executive Director, exercising the powers and duties set forth in the Charter and in this Article I. The Career Service Board, the Office of Human Resources Executive Director**,** and the Office of Human Resources shall maintain and foster a merit-based personnel system for employees in the Career Service and shall be committed to equal employment opportunity. Members of the Career Service Board shall be appointed as provided in the Charter and shall serve for staggered five-year terms.

Sec. 18-2. Powers and duties of Career Service Board.

(a) In addition to executing the powers and duties assigned to the Career Service Board by the Charter or by any other ordinance of the City, the Career Service Board shall:

(1) Appoint an Office of Human Resources Executive Director to perform the duties set forth in ordinance and such other duties as may be assigned by the Board.

(2) Conduct or obtain annually surveys of generally prevailing pay rates as required by the Charter, and recommend to the Mayor and City Council classification and pay plan adjustments as provided in Section 18-5(a) and (b) on the basis of the survey results after conducting at least one (1) public hearing on any such recommendation.

(3) Conduct at least one (1) public hearing on any proposed change to employee benefits prior to the Director making any recommendation to the Mayor and City Council as provided in Section 18-5(c).

(4) Develop, maintain and administer job classifications and attendant pay plans and pay practices for all positions in the career service and those positions not in the career service, excluding those positions excepted in section 18-5 (a).

(5) Certify that personnel actions involving employees in the career service personnel system, including hiring, promotional appointments, disciplinary actions, and terminations are taken in strict accordance with the career service provisions of the charter, career service rules, and any applicable ordinance of the city.

(b) In addition to exercising the rulemaking authority set forth in the Charter, the career service board may also adopt and maintain rules related to the administration of pay and benefits, classifications, terms and conditions of employment, employee conduct, and any other rules necessary to foster and maintain a merit-based personnel system; provided, however, that any such rule shall be consistent with the Charter and ordinances of the city.

Sec. 18-3 Powers and duties of the Office of Human Resources Executive Director

The Office of Human Resources Executive Director shall serve at the pleasure of the Board, shall administer the Office of Human Resources and shall be the appointing authority for all employees of the Office of Human Resources, except Career Service hearing officers and any other appointee serving at the pleasure of the Board as provided in the Charter. The Office of Human Resources Executive Director shall:

(a) Assist the career service board in carrying out the powers and duties set forth in section 18-2

(b) Upon request of the mayor or the city council, directly assist the mayor or city council in formulating alternatives to implementing the career service board's annual recommendations regarding modification of the classification and pay plan.

(c) From time to time recommend to the mayor and city council other modifications to the classification and pay plan in order to promote the city's policy of providing generally prevailing compensation to employees in the career service and ensuring like pay for like work.

(d) Conduct benefit surveys when requested by the mayor, the city council, or the career service board as required by the Charter.

(e) Recommend to the mayor and city council changes to employee benefits as described in section 18-5(c) after the career service board conducts at least one (1) public hearing on the proposed change.

(f) Administer any duly adopted employee benefits programs.

(g) Develop and administer, in cooperation with other city departments and agencies, employee training and organizational development programs.

(h) Develop and administer, in cooperation with other city departments and agencies, publications, surveys, advisory boards, and other measures for communication to and from employees on matters of compensation, conditions of employment, and administration of the merit system.

(i) Obtain voluntary benefit plans and programs for eligible city employees, provided that such plans and programs are at no cost to the city and are fully funded by employees.

(j) Perform all other functions appropriate to a central human resource agency for employees in the career service including maintaining the official personnel records of career service employees, except those functions specifically reserved to the career service board or to other officers, departments or agencies by the Charter or ordinances of the city.

This Appendix is provided for informational purposes and is not considered a part of the Rules.

RULE 3
RECRUITMENT

(Effective January 20, 2012; Rule Revision Memo 57C)

Purpose statement:

As provided in the City charter (See Appendix to Rule 2 **OFFICE OF HUMAN RESOURCES**), the Office of Human Resources ("OHR") administers a merit-based personnel system in which appointments and promotions of employees are made on the basis of merit and ability. Further, applicants and employees are entitled to equal employment opportunity without regard to race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation or any other status protected by federal, state or local laws.

Section 3-5 Definitions

A. Applicant: A person who has submitted an application to the OHR in connection with a posted job opening.

B. Assessment: A competitive examination of competence that the OHR is required by the City Charter to conduct on candidates for posted job openings.

C. Candidate: An applicant who has been determined by the OHR to have met the minimum qualifications for a posted job opening.

D. Eligible candidate: A candidate for a posted job opening within the Career Service who meets the criteria required for placement on an eligible list.

E. Promotion: An appointment of an employee to a position in a classification in which the range minimum of the pay range of the new classification is higher than the range minimum of the pay range of the classification previously held.

F. Referral: The act of providing an appointing authority with one or more lists of candidates eligible to be hired into a particular vacancy.

Section 3-10 Delegation of Authority by the OHR Executive Director

The OHR Executive Director may delegate any authority given under this rule to a designee.

Section 3-15 Responsibilities in the Recruitment Process

A. The OHR shall be responsible for the following steps in recruiting for job openings in the Career Service (including vacant trainee, paid intern, and apprentice positions:

1. Advertising job openings;

2. Assessment of candidates;

3. Referral of re-instatement and eligible lists to appointing authorities; and

4. Any other services related to the recruitment process requested by the appointing authority and agreed to by the OHR.

B. Except as delegated by the OHR Executive Director, departments and agencies are not authorized to administer pre-employment or on-the-job assessments to applicants, candidates or employees.

Section 3-20 Notice of Job Openings

A. Job opportunities in the Career Service must be posted in the OHR and on the City web site for at least two (2) business days. Such notices may also be posted in other places where potential applicants would be likely to see them.

B. Content of Job Posting Notices:

The notice must contain the job title, pay grade, dates the recruitment will open and close, minimum qualification requirements, and instructions on how to apply.

3-21 Restricted Recruitments

A. Appointing authorities may request that recruitments be open only to applicants who:

1. Are:

a. Current City employees; or

b. Career Service employees eligible for promotion; or

c. Career Service employees in the appointing authority's department or agency or in a consolidation code in the department or agency, eligible for promotion; or

d. Career Service employees eligible for transfer, demotion, and re-promotion, and former employees eligible for re-employment, as defined in Rule 5 **APPOINTMENTS AND STATUS**.

2. Possess specific education, experience, knowledge, skills, abilities, and competencies necessary to perform a particular job, in addition to the minimum requirements in a classification specification; or

3. Fall within one of the categories in subsection 1 and possess the special qualifications required under subsection 2.

B. An individual who has been separated as a result of a lay-off, and whose name still appears on a re-instatement list, shall be eligible to compete for recruitments that are otherwise restricted to current City employees as if he or she were still an employee.

Section 3-30 Assessment

A. The OHR may give one or more of the following kinds of assessments:

1. Evaluation of experience and education;

2. Written;

3. Skill-based;

4. Interview; or

5. Any other appropriate measures.

B. The OHR shall decide the weight of each phase of the assessment. Weights and phases may be changed as conditions warrant.

3-31 Substitution of Experience for Education

A. One year of the appropriate type and level of experience may be substituted for each required year of post-high school education for all classifications, subject to the limitations below.

B. Two years of the appropriate type and level of experience may be substituted for each required year of post-high school education for all classifications at or above the type and level of a first-level manager, such as Manager 1.

C. No substitution of experience for education will be permitted for:

1. Classifications that require a college degree or graduate degree in order to obtain a license or certification to practice within the discipline. Examples include, but are not limited to, physicians, pharmacists, and attorneys;

2. Classifications that require a college degree to provide optimum successful performance at the time of job entry. Examples include, but are not limited to, accounting, environmental and scientific occupations; or

3. Classifications where college, vocational, or other specialized education beyond high school is required to meet certification or licensure requirements. Examples include, but are not limited to, licensed and certified skilled trades workers, paralegals, paramedics, and various other medical technicians.

3-32 Disqualification of Applicants and Candidates

A. Applicants and candidates may be disqualified from further consideration in the recruitment process for any valid reason, including, but not limited to, submission of a late or incomplete application or resume; or the failure to submit other required documents on time.

B. Applicants and candidates shall be disqualified from further consideration in the recruitment process for the following reasons:

1. Failure to meet minimum education, experience and/or licensing or certification requirements;

2. Failure to attain the required minimum score on an assessment;

3. Unsuitability for the position, including certain criminal convictions;

4. Committing, or threatening to commit, acts of violence against City employees involved in the recruitment process, including intimidating, threatening or hostile behavior;

5. Dismissal from the Career Service. Employees dismissed from the Career Service are not eligible to be assessed for five years after the date of dismissal; or

6. Providing false information in an application or resume, or falsification of assessment scores or records, or cheating, taking or participating in taking assessments for which the candidate is not the registered candidate. This conduct may result in the candidate being barred from future examinations.

3-33 Scheduling of Assessments

A. Every effort shall be made to plan assessments so as to prevent the disruption of department or agency operations.

B. Unless another date and time is available prior to the end of the scheduled assessments for the announced opening, all assessments must be taken when scheduled, or returned by the due date, as appropriate.

C. Notwithstanding the previous section, deferred assessments are permissible for candidates who miss a scheduled assessment or due date for the following reasons, and provide appropriate documentation:

1. The candidate was ordered into military service;

2. The candidate has jury duty;

3. The candidate has been subpoenaed to appear in court;

4. The candidate has been ordered to perform City business; or

5. The candidate is a City employee who has a work related injury, which renders the candidate unable to take the assessment when scheduled.

D. The OHR Executive Director may also approve a request for a deferred assessment on other grounds for good cause shown.

E. Referral of a list resulting from the assessment shall not be delayed if the deferred assessment cannot be scheduled within seven (7) calendar days of the end of scheduled assessment.

3-34 How Assessments are Given

A. Except as provided in part B of this subsection, the same, or equivalent, assessments will be given to all candidates assessed.

B. Accommodation for Disabled Candidates:

1. The OHR will provide reasonable accommodations in the assessment process, upon request, for candidates who are qualified individuals with a disability under the Americans with Disabilities Act.

2. In instances where established assessment procedures are not appropriate for such candidates, their eligibility shall be determined by alternate assessment procedures which accurately measure their ability to perform the essential functions of the position with or without reasonable accommodation.

3-35 Assessment Scores

A. Minimum Score: The OHR Executive Director must decide how assessments are scored and what score is needed to pass.

B. Multiple part assessments: The OHR Executive Director may decide that by failing one part of a multiple part assessment, a candidate has failed the assessment and the other parts of the assessment cannot be taken.

C. Final Rating: Final ratings must be based on the total or combined assessment score.

D. Veterans' Points: Points must be added to passing scores of eligible candidates, who are not employees, as required by the Veterans' Preference provision of the Colorado Constitution (relevant portions are attached as an Appendix).

E. Notice to candidates: Each candidate shall be provided with access to their assessment scores.

F. Confidentiality of score: Assessment scores are confidential and shall not be made available to any person outside the OHR except the appointing authority in connection with a referral, and the candidate. The candidate assessed may, in writing, allow the OHR to release his or her assessment scores to others. Assessment scores may also be released pursuant to court order or an appropriate subpoena.

3-37 Request for review

Applicants and candidates for employment or promotion in the Career Service who are dissatisfied with the results of the assessment process may notify the recruiter of their concerns in writing or by e-mail within three (3) business days from the date of the notice.

Section 3-40 Referral

Appointing authorities can only fill vacant Career Service positions with eligible candidates whose names appear on lists referred to the appointing authority by the OHR as described in this section of this Rule 3, or who fall within one of the following exceptions:

A. Career Service employees who are eligible for re-promotion, transfer, demotion, or re-assignment appointments, or former employees who are eligible for re-employment, as defined in Rule 5 **APPOINTMENTS AND STATUS**.

B. City employees who are eligible for re-assignment under Rule 5-84, Reasonable Accommodations for Individuals with Disabilities Policy.

C. Trainees and paid interns who have successfully completed the trainee or intern probationary period as provided in Rule 5 **APPOINTMENTS AND STATUS** may be promoted into the position the trainee or intern was being trained to perform.

D. Trades apprentices who meet the minimum qualifications of the applicable trades classification and have successfully completed the required apprenticeship training (as documented by the employee's department or agency and verified by the OHR) may be promoted into the applicable trades classification.

E. Employees in positions in classifications in the Deputy Sheriff pay schedule who are appointed to Deputy Sheriff Major and Deputy Sheriff Division Chief positions after May 31, 2014. (Effective June 1, 2014; Rule Revision Memo 8D)

3-41 Re-instatement List

A. Employees or former employees shall be placed on the re-instatement list for the classification from which they have:

1. Been laid off;

2. Transferred or re-assigned in lieu of lay-off when the employee has been moved from an unlimited position to a limited or on-call position, or from a full-time position to a part-time position;

3. Demoted in lieu of lay-off;

4. Voluntarily resigned in lieu of lay-off; or

5. Voluntarily demoted in lieu of lay-off.

B. The names of eligible employees or former employees shall be added to this list as soon as administratively feasible, with the effective date being the effective date of the lay-off or action in lieu of lay-off.

C. Eligible employees or former employees will be listed for one year unless removed for cause.

D. Eligible employees or former employees shall be listed by seniority, or by proficiency (to the extent it was used as a basis for the employee's lay-off) so that the employee with the longest length of service, as defined in Rule 14 **SEPARATION OTHER THAN DISMISSAL**, is higher on the list.

E. Re-instatement lists shall only be used within the Lay-off Unit (as defined in Rule 14 **SEPARATION OTHER THAN DISMISSAL**) that the employee or former employee was in when the lay-off took place.

F. Referral from the re-instatement list is mandatory and exclusive. No other referral shall be made while any eligible employees or former employees remain on this list. Referral shall consist of the highest ranking eligible employee or former employee, or if there are ties, all those at the highest ranking.

G. If a re-instatement list exists for a classification in which the department or agency has a position with a special qualification which has been approved by the OHR Executive Director, referral shall consist of the highest ranking eligible employee or former employee who has the special qualification, or if there are ties, all those with the required special qualification at the highest ranking. If none of the eligible employees or former employees have the required special qualification, a referral shall be made in accordance with the rules applicable when there is no re-instatement list.

H. Any re-instatement list may be abolished at any time by the OHR Executive Director if the classification specification is abolished or revised.

3-42 Eligible List

A. An eligible list is comprised of all eligible candidates for a particular job opening.

B. Referral:

1. The department or agency may request that any number of eligible candidates on the eligible list be referred for a vacancy. However, at least three (3) eligible candidates shall be referred (unless there are less than three (3) eligible candidates on the list).

2. A minimum of three (3) eligible candidates from a referred eligible list must be interviewed by the department or agency when filling a vacant position, unless there are less than three (3) eligible candidates on the list, in which case, the department or agency must interview all of the eligible candidates on the list.

3. At the request of the department or agency, the OHR shall provide an analysis of the results of the assessment (s) taken by eligible candidates whose names are referred to the department or agency in order to assist the department or agency in making appointments on the basis of merit and ability.

3-43 Use of Appropriate Alternative Lists

When the existing referral list for a job opening does not have a sufficient number of names, the OHR Executive Director may allow a list for a different classification to be used instead of or to supplement the existing referral list, provided the classification chosen has an equal or higher beginning pay rate than the job opening, and that the eligible candidates on the new list meet the minimum qualifications of the job opening's classification.

3-44 Emergency Referral

If the OHR Executive Director determines an emergency exists, a list of eligible candidates may be given to the hiring department or agency at any time, even before all candidates have been assessed. Only eligible candidates who can be reached immediately in person or by any other available means will be considered ready to work.

3-45 Referral Restrictions by Appointing Authorities

An appointing authority may request that referral be restricted to eligible candidates who:

A. Possess specific education, experience, knowledge, skills, abilities, or competencies necessary to perform a particular job;

B. Are current City employees. Eligible candidates who have been separated as a result of a lay-off and whose names appear on a re-instatement list shall be treated as if they were still City employees for purposes of this subsection.

Section 3-50 List Management

3-51 Eligible List Duration

A. Eligible candidates may be listed on an eligible list until the list is inactivated. Eligible lists may be inactivated at the discretion of the OHR Executive Director.

B. Eligible candidates on an eligible list may be referred during the life of the eligible list. However, at the request of an appointing authority, eligible candidates may be excluded from subsequent referrals to the same department or agency from the same list if approved by the OHR Executive Director.

3-52 Re-opening Recruitments

An eligible list may be re-opened for recruitment at any time during the life of the list in order to add additional eligible candidates to the list. When new eligible candidates are being added to an existing list, the same assessment plan that was used to create the original list must be used. Eligible candidates already on the eligible list are not permitted to re-take the assessment for the re-opened recruitment. Candidates who originally failed the assessment used to create an eligible list that is subsequently re-opened are not permitted to re-apply.

3-53 Re-use of Assessment Scores

After an eligible list is inactivated, candidates who were formerly on the list may re-use passing assessment scores in other recruitments for a period of time designated by the OHR Executive Director. The period of time may vary based on the subject matter contained in the assessment. A candidate may request the use of a passing assessment score for all recruitments for which the candidate has applied and for which the same assessment is used. The creation of a new or revised assessment for a classification may require all candidates to take and pass the new assessment to gain eligibility.

3-54 Removal of Names from Referral Lists: Restoration Permitted

The name of an eligible candidate shall be removed from all lists for the reasons listed below, but may be restored if the eligible candidate provides a satisfactory explanation to the OHR Executive Director, provided that list eligibility remains:

A. The eligible candidate does not answer when asked by the City if available or ready to work, or the eligible candidate cannot be reached for two consecutive days.

B. The eligible candidate turned down a referral or a job offer for reasons that would make it impossible to take other jobs in the same job classification.

C. The employee or former employee on a re-instatement list refuses an offer of re-instatement to a position equivalent in terms of duration and hours worked to the position the employee or former employee was in immediately prior to the lay-off.

D. The eligible candidate requested that his or her name be removed from the list.

E. The eligible candidate did not pass the appropriate post-employment offer health assessment.

F. Evidence has been produced that the eligible candidate no longer meets minimum qualification requirements.

G. The eligible candidate did not report for work after being hired. The names of eligible candidates who did not report for work after being hired will not be added to any lists for five (5) years.

3-55 Removal of Names from Referral Lists: Restoration Not Permitted

The name of an eligible candidate shall be removed from all applicable lists for the reasons listed below. Restoration is not permitted when:

A. Evidence has been produced that the eligible candidate should not have been admitted to the assessment.

B. An eligible candidate who was not a City employee has been appointed to an unlimited position in the Career Service.

C. A re-instatement list eligible candidate has been appointed to an unlimited Career Service position at the same or higher pay grade than the classification from which the eligible candidate was laid off or demoted from in lieu of lay-off.

D. The name of an eligible candidate who has been promoted to a higher classification is removed from all lists at or below the level of the promotional classification.

E. The eligible candidate has been dismissed from the Career Service. The names of dismissed employees will not be added to any lists for five (5) years after the date of dismissal.

APPENDIX 3.A.

CONSTITUTION OF COLORADO
ARTICLE XII, SECTION 15. VETERANS' PREFERENCE

(1) (a) (I) The minimum requirements for a candidate to be placed on an eligible list for a position shall be the same for each candidate for appointment or employment in the state personnel system or in any comparable civil service or merit system of any agency or political subdivision of the state, including any municipality chartered or to be chartered under article XX of this constitution.

(II) If a numerical method is used for the comparative analysis based on objective criteria, applicants entitled to preference under this section shall be given preference in accordance with paragraphs (b) to (e) of this subsection (1). If a nonnumerical method is used, applicants entitled to preference under this section shall be added to the interview eligible list.

(b) Five points shall be added to the comparative analysis score of each candidate who is separated under honorable conditions and who, other than for training purposes, (i) served in any branch of the armed forces of the United States during any period of any declared war or any undeclared war or other armed hostilities against an armed foreign enemy, or (ii) served on active duty in any such branch in any campaign or expedition for which a campaign badge is authorized.

(c) Ten points shall be added to the comparative analysis score of any candidate who has so served, other than for training purposes, and who, because of disability incurred in the line of duty, is receiving monetary compensation or disability retired benefits by reason of public laws administered by the department of defense or the veterans administration, or any successor thereto.

(d) Five points shall be added to the comparative analysis score of any candidate who is the surviving spouse of any person who was or would have been entitled to additional points under paragraph (b) or (c) of this subsection (1) or of any person who died during such service or as a result of service-connected cause while on active duty in any such branch, other than for training purposes.

(e) No more than a total of ten points shall be added to the comparative analysis score of any such candidate pursuant to this subsection (1).

(2) The certificate of the department of defense or of the veteran's administration, or any successor thereto, shall be conclusive proof of service under honorable conditions or of disability or death incurred in the line of duty during such service.

* * * * * * * * * * *

(5) No person shall receive preference pursuant to this section with respect to a promotional opportunity. Any promotional opportunity that is also open to persons other than employees for whom such appointment would be a promotion, shall be considered a promotional opportunity for the purposes of this section.

(6) Repealed.

(7) This section shall be in full force and effect on and after July 1, 1971, and shall grant veterans' preference to all persons who have served in the armed forces of the United States in any declared or undeclared war, conflict, engagement, expedition , or campaign for which a campaign badge has been authorized , and who meet the requirements of service or disability, or both, as provided in this section. This section shall apply to all public employment examinations, except promotional examination, conducted on or after such date, and it shall in all respects be self-executing.

This Appendix is provided for informational purposes and is not considered a part of the Rules.

RULE 5
APPOINTMENTS AND STATUS

Section 5-10 Appointment by Appointing Authority

The Career Service shall comprise all employees of the City and their positions, subject to the exceptions in the City Charter (relevant sections have been attached as an appendix to this rule). Election Judge positions are not part of the Career Service. Appointment to any position in the Career Service shall be made by an appointing authority, subject to local, state, and federal employment laws (Effective June 8, 2007; Rule Revision Memo 19C).

Section 5-15 Delegation of Authority by the OHR Executive Director
(Effective June 17, 2011; Rule Revision Memo 54C)

The Office of Human Resources ("OHR") Executive Director may delegate any authority given under this rule to a subordinate employee.

Section 5-20 Medical Examinations Following a Conditional Offer of Employment
(Revised June 17, 2011; Rule Revision Memo 54C)

5-21 Medical Groups

All classifications in the Career Service shall be allocated to a medical group by the OHR Executive Director. The medical groups are as follows:

A. Heavy (H): Positions which demand a very high degree of physical fitness and health.

B. Medium (M): Positions which demand considerable labor and exertion or in which safety considerations mandate a high degree of physical fitness and health.

C. Sedentary (S): Positions which require little physical labor or exertion and an average degree of health.

5-22 Adoption of Medical Standards

Medical criteria for each medical group or for individual classifications within a medical group shall be proposed by the Center for Occupational Safety and Health at Denver Health or by another designated provider (as defined in Chapter 18, Article VII of the Denver Revised Municipal Code – Treatment of Occupational Injury or Disease), if selected by the appointing authority. Approval of the proposed medical criteria shall be the responsibility of the OHR Executive Director. Medical criteria must be job-related and consistent with business necessity. Medical criteria shall be used as a guide in determining an applicant's ability to perform the essential physical functions of a position either with or without reasonable accommodations.

5-23 Medical Examinations

A. Applicants who are offered positions in a classification in group H or M are required to submit to a medical examination after receiving an offer of employment conditioned on the results of the medical examination. The examination shall be administered by one of the City's designated providers (as defined in the previous subsection). The examination shall be completed after the conditional offer of employment has been given to the applicant and before the first day of work.

B. Applicants who are offered positions in a classification in group S are not required to submit to a post-employment offer medical examination unless the position has other assigned duties that demand a high degree of physical fitness and health (such as operating snow removal equipment). The determination of whether a conditional offer of employment and a post-employment offer medical examination is required shall be made by the appointing authority and shall be based on the physical requirements of the position.

C. If it is determined that the applicant is unable to perform the essential functions of the position with or without reasonable accommodations, the offer of employment shall be rescinded.

Section 5-30 Types of Positions
(Effective November 1, 1980; Rule Revision Memo 127A).

5-31 General

All positions in the Career Service shall be identified by the following two (2) characteristics:

A. Duration; and

B. Number of hours worked.

5-32 Duration

The duration of each position in the Career Service shall be determined by one of the following definitions:

A. Unlimited positions: A position which has no specified ending date.

B. Limited position: A position which has a specified ending date. Examples are positions funded by grants, positions created to meet a special project or seasonal need, positions created to replace an employee on extended leave, positions created to provide program continuity on an acting basis while recruitment is underway to fill a vacant position, and similar positions created with a time limitation for comparable specific purposes.

5-33 Number of Hours Worked

A. Identification of positions by category: Each position in the Career Service shall be identified by one of the following working hours categories:

1. Full time;

2. Part time;

3. On call.

B. Criteria of categories:

1. Full time: A full time position is one in which an employee is scheduled to work forty (40) hours per week. If a special work schedule is authorized under Rule 9 **PAY ADMINISTRATION**, a full time position shall include a work schedule of eighty (80) hours in two (2) weeks, when applicable.

2. Part time: A part time position is one in which an employee is scheduled to work less than forty (40) hours per week.

3. On call: An on call position is one in which the employee works as needed. On-call positions may have routine or variable work patterns and are generally filled to accommodate seasonal or short term activities in various city agencies. Ushers are an example. Since Election Judges are not in the Career Service, they are not considered to be on-call Career Service employees. (Effective June 8, 2007; Rule Revision Memo 19C)

Section 5-40 Employee Status
(Effective November 1, 1980; Rule Revision Memo 127A: Revised April 1, 2006; Rule Revision Memo 6C)

5-41 General

Every Career Service employee shall hold one of the following employee status identifications; determined by position characteristics, probation requirements, or both:

A. Employment probationary status;

B. Career status;

C. Promotional probationary status;

D. Non-career status;

E. Trainee or intern probationary status.

F. Senior Command Staff status.
(Effective June 1, 2014; Rule Revision Memo 8D)

5-42 How Status is Attained

A. Employment probationary: Every person when first appointed or re-employed to a full time or part time, limited or unlimited Career Service position, that is not a trainee or intern position, shall hold employment probationary status for the probation period required for the class.

B. Career:

1. General: Employees attain career status through:

a. Successful completion of-the probationary period, and the training programs required by Rule 6 **EMPLOYEE TRAINING AND ORGANIZATIONAL DEVELOPMENT**; or

b. Re-instatement after lay-off.

2. Promotion while on employment probation: An employee promoted while on employment probation shall attain career status in the former class upon satisfactory completion of the number of months required in that former class. In order to achieve career status in the class to which promoted, the employee shall serve the remaining probationary period required for that class in promotional probationary status.

C. Promotional probationary: Every career status employee who receives a promotional appointment (including re-promotion) shall hold promotional probationary status for the full probationary period of the new class. A promotional probationary employee who transfers from career status to non-career status and back again shall have promotional probationary status as of the date immediately preceding the initial transfer.

D. Non-career: Every person who is appointed to an on-call position shall hold non-career status for the duration of the appointment and shall not serve a probationary period.

E. Trainee or intern probationary: Every person who is appointed to a trainee or intern position shall hold trainee or intern probationary status for the duration of the appointment, as required for the applicable trainee or intern classification specification. The Public Safety Cadet classification is considered a trainee classification under these rules.

F. Senior Command Staff: Every employee in a position in a classification in the Deputy Sheriff pay schedule who is appointed to a position in the Deputy Sheriff Major or Deputy Sheriff Division Chief classifications after May 31, 2014 shall hold Senior Command Staff status for the duration of the appointment and shall not serve a probationary period. However, such employee shall retain career status attained in his or her former classification and be entitled to return to a position in that classification when the employee's Senior Command Staff status ends. (Effective June 1, 2014; Rule Revision Memo 8D)

Section 5-50 Probation

(Effective November 1, 1980; Rule Revision Memo 127A: Revised April 1, 2006; Rule Revision Memo 6C)

5-51 Purpose (Effective December 2, 1981; Rule Revision Memo 25B)

Probationary periods shall be regarded as integral parts of the examination process and shall be utilized for closely observing the employee's work, assisting the employee to adjust to the duties and responsibilities of the position, and to separate or demote, or return from promotional probation an employee whose performance does not meet required standards, in accordance with the following:

A. During employment, trainee or intern probation: An employee serving employment, trainee, or intern probation may be separated in accordance with Rule 16 **DISCIPLINE AND DISMISSAL**, or demoted to a position with less responsibility in accordance with paragraph 5-72 E Demotion appointment. Upon demotion, the employee shall begin a new employment probationary period.

B. During promotional probation: An employee serving promotional probation shall be returned from promotional probation to a position in the class from which promoted within the agency from which promoted. The failure to satisfactorily complete a promotional probationary period shall be documented in accordance with subsection 5-53 End of Probation Notification and subsection 5-63 Employees in Promotional Probationary Status (Effective July 1, 1991; Rule Revision Memo 147B).

5-52 Duration of Probation

A. Minimum period: Except for Deputy Sheriffs, the minimum period of employment and promotional probation shall be six (6) months. The duration of trainee and intern probation is set by the applicable classification specification. The minimum period of probation for Deputy Sheriffs shall be twelve (12) months (Effective January 21, 1993; Rule Revision Memo 163B).

B. Extension of probation:

1. At the request of an appointing authority, the OHR Executive Director may approve the extension of an employment and promotional probationary period up to six (6) months if the OHR Executive Director considers the best interests of the City to be served thereby (Effective December 3, 1981; Rule Revision Memo 24B).

2. Employees serving employment or promotional probation who have not completed training programs required by Rule 6 **EMPLOYEE TRAINING AND ORGANIZATIONAL DEVELOPMENT** as a condition of passing probation will have their probationary periods automatically extended until the training programs have been completed and documentation evidencing such completion has been provided to the OHR. This paragraph shall not affect a department or agency's ability to end probation at any time (Revised January 22, 2010; Rule Revision Memo 45C).

C. Measurement of time: For the purposes of this subsection, time shall be measured in calendar days, irrespective of whether the position has a full time or part time work schedule.

5-53 End of Probation Notification
(Effective July 1, 1991; Rule Revision Memo 147B)

A. General: Employee performance during a probationary period shall be documented by probationary reports. Employee performance shall be certified by an end-of-probation notification, or a written statement indicating the employee has passed or failed in completing the probationary period.

B. Effective dates for end of probation notification:

1. End of probation notification: Employee performance during a probationary period shall be documented by the completion of a notification form prepared by the employing agency in a format authorized by the OHR. If the employee fails to pass probation, a letter notifying the employee, copied to the OHR, shall substitute for the notification form. In either case, it shall be due before the effective date of attainment of career status.

2. Dates: The date of notification shall be prior to the conclusion of the required probationary period.

3. Other probationary appraisals: Supervisors are encouraged to continually appraise performance during the probationary period so that employees are fully informed of their progress.

C. Failure to file an end-of-probation notification letter or form: An employee who has completed the required probationary period and the training programs required by Rule 6 **EMPLOYEE TRAINING AND ORGANIZATIONAL DEVELOPMENT** shall attain career status unless the required notification letter or form stating successful completion or failure in completing the probationary period has been received at the OHR prior to the end of the probationary period.

D. Procedure when employee will not pass probation: If it is anticipated that the employee will not pass probation, the agency shall notify the employee of this decision a reasonable time in advance, but no less than two (2) working days prior to the completion of probation date, and shall allow representation at the meeting to discuss this action.

E. The provisions of this subsection 5-53 End of Probation Notification, do not apply to employees in trainee or intern probation.

Section 5-60 Effect of Employment Status on Employee Rights, Privileges and Benefits.
(Effective November 1, 1980; Rule Revision Memo 127A: Re-numbered October 17, 2010; Rule Revision Memo 47C)

5-61 Employees in Employment Probationary Status
(Revised October 2, 2007; Rule Revision Memo 22C)

An employee in employment probationary status:

A. May be terminated or demoted at any time;

B. May not appeal any decision relating to his or her employment, including termination, except on the grounds of alleged discrimination or violation of the City's "Whistleblower Protection" ordinance;

C. Is entitled to accumulate leave in accordance with Rule 10 **PAID LEAVE** (Revised May 7, 2012; Rule Revision Memo 62C);

D. Is entitled to disability leave in accordance with Rule 11 **UNPAID AND EXTENDED LEAVE** (Revised January 1, 2010; Rule Revision Memo 42C); and

E. Is entitled to such other rights, privileges, and benefits as set forth in these rules.

5-62 Employees in Career Status

An employee in career status:

A. May be disciplined or dismissed only for cause, in accordance with Rule 16, **DISCIPLINE AND DISMISSAL**;

B. May file a grievance or appeal for any reason specified in Rule 18 **DISPUTE RESOLUTION** or Rule 19 **APPEALS**;

C. Is entitled to the full benefit of leave provisions in accordance with Rule 10 **PAID LEAVE** (Revised January 1, 2010; Rule Revision Memo 42C);

D. May earn merit increases and merit payments in accordance with Rule 13 **PAY FOR PERFORMANCE** (Effective September 1. 1989; Rule Revision Memo 129B);

E. Is entitled to lay-off protection specified in Rule 14 **SEPARATION OTHER THAN DISMISSAL** except for employees appointed to limited positions after January 16, 2004 (Revised March 19, 2004; Rule Revision Memo 247B);

F. May receive re-instatement appointments (as provided in Rule 3 **RECRUITMENT**), re-assignments, transfer appointments or demotion appointments without serving a new probationary period (Revised March 19, 2004; Rule Revision Memo 247B);

G. May have continuous service credits earned prior to lay-off restored if such employee is re-instated or re-employed while still on the re-instatement list (Effective December 18,1980; Rule Revision Memo 1B); and

H. Is entitled to such other rights, privileges and benefits as set forth in these rules.

5-63 Employees in Promotional Probationary Status
(Revised October 2, 2007; Rule Revision Memo 22C)

An employee in promotional probationary status, whether attained through promotional or re-promotional appointment, has the rights, privileges, and benefits of an employee in career status, except that if the employee does not perform at or above "Successful" on a Performance Enhancement Program Report during the promotional probationary period, the employee shall be returned to a position in the class from which promoted within the department or agency from which promoted. A return from promotional probation may not be appealed except on the grounds of alleged discrimination or violation of the City's "Whistleblower Protection" ordinance.

5-64 Employees in Non-Career Status
(Revised October 2, 2007; Rule Revision Memo 22C)

An employee in non-career status:

A. May be terminated at any time;

B. May not appeal any decision relating to his or her employment, including termination, except on the grounds of alleged discrimination or violation of the City's "Whistleblower Protection" ordinance;

C. May promote to a higher level class if qualified in accordance with these rules;

D. May be re-assigned or transferred to another position in a class with the same job rate; and

E. May demote to another position, if qualified.

5-65 Employees in Trainee or Intern Probationary Status
(Revised October 2, 2007; Rule Revision Memo 22C)

An employee in trainee or intern probationary status:

A. May be terminated or demoted at any time;

B. May not appeal any decision relating to his or her employment, including termination, except on the grounds of alleged discrimination or violation of the City's "Whistleblower Protection" ordinance;

C. Is entitled to accumulate and take leave in accordance with Rule 10 **PAID LEAVE** (Revised January 1, 2010; Rule Revision Memo 42C);

D. Is entitled to disability leave in accordance with Rule 11 **UNPAID AND EXTENDED LEAVE** (Revised January 1, 2010; Rule Revision Memo 42C);

E. May promote to a higher level class if qualified in accordance with these rules;

F. May be re-assigned or transferred to another position in a class with the same job rate; and

G. May demote to another position, if qualified.

5-66 Employees in Senior Command Staff Status
(Effective June 1, 2014; Rule Revision Memo 8D)

An employee in Senior Command Staff status retains the rights, privileges, and benefits the employee had by virtue of his or her status prior to the appointment, except that the employee:

A. May be returned to a position in his or her former classification at any time. Upon returning, the employee shall receive the same rate of pay he or she was receiving prior to his or her appointment to a position in the Deputy Sheriff Major or Deputy Sheriff Division Chief classifications (Senior Command Staff position), after taking into account the effect of any pay changes or classification changes to the employee's former position and classification that occurred during the period between the appointment and the return; and

B. May not grieve or appeal his or her removal from a Senior Command Staff position;

Employees who were appointed to Senior Command Staff positions prior to June 1, 2014 shall retain career status attained in that position and shall not be considered to have Senior Command Staff status.

Section 5-70 Types of Appointments

5-71 Appointments of Applicants Who Are Not in the Career Service
(Effective May 4, 2007, Rule Revision Memo 18C; revised January 20, 2012, Rule Revision Memo 57C)

A. Employment appointment: An appointment made as a result of referral of an employment list in accordance with Rule 3 **RECRUITMENT**.

B. Re-instatement appointment: An appointment of a former employee who had been laid off or who resigned in lieu of a lay-off, which is made as a result of referral from a re-instatement list in accordance with Rule 3 **RECRUITMENT**.

C. Re-employment appointment: An appointment of a former employee to a position in the classification in which the employee was previously employed within the preceding five (5) years, or to a successor classification; or to any classification for which the employee is qualified, with the same or lower range minimum than the former classification, subject to the following conditions:

1. Former employees whose separation was the result of a dismissal are not eligible for re-employment;

2. An appointment that is a re-instatement is not a re-employment;

3. In order to determine eligibility for re-employment into a successor classification, the OHR Executive Director may, on a case-by-case basis, review the duties previously performed as well as classification and pay; and

4. A former employee who is re-employed shall serve in an employment probationary status.

(Revised October 17, 2010; Rule Revision Memo 47C)

5-72 Appointments of Employees Who Are in the Career Service
(Effective May 4, 2007, Rule Revision Memo 18C)

A. Promotional appointment: An appointment of an employee to a position in a classification in which the range minimum of the pay range for the new classification is higher than the range minimum of the pay range for the employee's current classification (Revised October 17, 2010; Rule Revision Memo 47C).

B. Promotional re-instatement appointment: An appointment of an employee who has been demoted in lieu of lay-off which is made as a result of referral from a re-instatement list in accordance with Rule 3 **RECRUITMENT** (Effective January 20, 2012, Rule Revision Memo 57C).

C. Re-promotional appointments: A promotion of an employee to a position in a higher classification in which the employee was previously employed within the preceding five (5) years, or to a successor classification; or to any classification for which the employee is qualified, with the same or intervening range minimum as the former classification subject to the following conditions:

1. Appointments that are promotional re-instatements are not re-promotions;

2. In order to determine eligibility for re-promotion into a successor classification, the OHR Executive Director may, on a case-by-case basis, review the duties previously performed as well as classification and pay; and

3. An employee who is re-promoted shall serve in a promotional probationary status.

(Revised October 17, 2010; Rule Revision Memo 47C)

D. Transfer appointment: An appointment of an employee from a position in one classification to a different position in a classification with the same range minimum:

1. In a different agency; or

2. In a different classification in the same agency.

(Revised October 17, 2010; Rule Revision Memo 47C)

E. Demotion appointment: An appointment of an employee to a position in a classification in which the range minimum of the pay range of the new classification is lower than the range minimum of the pay range of the classification previously held. However, this transaction shall not apply when an employee returns from promotional probation (Revised October 17, 2010; Rule Revision Memo 47C).

F. Return from promotional probation appointment: Change of a career status employee serving promotional probation to a position in the class from which promoted within the agency from which promoted (Effective December 3, 1981, Rule Revision Memo 25B).

G. End of training or internship probationary period:

1. The department or agency shall report to the OHR, in writing, at the conclusion of the trainee or intern probationary period, whether the trainee or intern has successfully completed the probationary period by acquiring the competencies, knowledge, skills and abilities necessary to satisfactorily perform the duties of the position.

2. An appointing authority may request, in writing to the OHR Executive Director, that the trainee or intern be deemed to have successfully completed the probationary period prior to the employee's completion of the trainee or intern probationary period.

3. Upon a determination by the OHR that the trainee or intern has successfully completed the trainee or intern probationary period, the department or agency may promote the trainee or intern into the position the trainee or intern was being trained to perform. (Effective January 20, 2012; Rule Revision Memo 57C)

H. Senior command staff appointment: An appointment of an employee in a position in a classification in the Deputy Sheriff pay schedule to a position in the Deputy Sheriff Major or Deputy Sheriff Division Chief classifications after May 31, 2014. (Effective June 1, 2014; Rule Revision Memo 8D)

5-73 Transfer Appointment
(Effective May 4, 2007; Rule Revision Memo 18C)

A. An employee may be given a transfer appointment provided that the employee and the receiving appointing authority consent, and that the requirements of Rule 3 **RECRUITMENT** are satisfied. The employee's status shall not be affected by this type of transfer appointment except as provided in paragraph C Transfer transition period.

B. Effective date of transfer: Unless otherwise agreed upon, a transfer appointment between departments or agencies becomes effective thirty (30) calendar days after the releasing department or agency is notified that the employee and the receiving department or agency have both consented to the transfer. However, the time may be shortened if the effective date is set jointly by the releasing appointing authority and the receiving appointing authority.

C. Transfer transition period:

1. Definition: A transfer transition period is a ninety-day (90) period following the effective date of a transfer during which the appointing authority of the receiving agency may initiate a return from transfer.

2. Eligibility: A transfer transition period applies except in either of the following circumstances:

   a. The employee has employment probation status on the effective date of the transfer; or

   b. The transfer was either in lieu of lay-off or anticipation of lay-off.

3. Effect of returning from transfer: If a return from transfer is initiated during the transfer transition period, the employee shall be returned to a position in the same classification in the same department or agency as prior to the transfer.

5-74 Demotion Appointments
(Effective May 4, 2007; Rule Revision Memo 18C: Revised July 19, 2012; Rule Revision Memo 64C)

A. Reasons for demotion: An appointing authority may give a demotion appointment in the following instances:

1. In lieu of lay-off: When a position is to be abolished, in accordance with Rule 14 **SEPARATION OTHER THAN DISMISSAL**.

2. In lieu of separation during employment probationary status: When an employee fails to perform satisfactorily, in accordance with subsection 5-61 Employees in Employment Probationary Status.

3. Voluntary: When an employee requests assignment to work of less difficulty or responsibility or accepts a voluntary demotion in lieu of lay-off as defined in Rule 14 **SEPARATION OTHER THAN DISMISSAL**.

B. Notice to employee: Before the demotion appointment is effective, the appointing authority shall furnish the employee a written statement containing the reasons for the demotion. If the demotion is voluntary, the statement should be signed by the employee. A copy of the statement shall be sent to the OHR before the demotion is effective.

C. OHR approval: Voluntary demotions must satisfy the requirements of Rule 3 **RECRUITMENT**. For all other types of demotions, the OHR shall approve the demotion appointment if it finds that the employee meets the minimum qualifications for the new class.

D. Appeal: All demotion appointments may be appealed under Rule 19 **APPEALS** provided that:

1. Demotion appointments in lieu of separation during probationary status or return from promotional probationary status may be appealed only on grounds of alleged discrimination;

2. Voluntary demotion appointments may be appealed only on grounds of alleged coercion; and

3. Demotion appointments resulting from a settlement of an appeal or grievance may be appealed only if the terms of the settlement have been violated.

5-75 Limitations on Appointment or Re-assignment of Immediate Family Members
(Effective January 1, 1982; Rule Revision Memo 21B)

A. General: No employee or officer (including any appointment authority or his or her designated representative) shall supervise or be in a direct line of supervision over a member of his or her immediate family, as defined in Rule 1 **DEFINITIONS**.

B. Exception: Career Service employees who were employed on May 19, 1976 shall be permitted to retain their positions and status, as held on that date, and may promote, demote, or transfer in accordance with Career Service Rules governing these appointments without regard to the provisions of this subsection:

1. They are continuously employees under Career Service; and

2. The supervisory relationship or the direct line of supervision relationship existed prior to January 1, 1982.

C. If a supervisor or an employee or officer in a direct line of supervision becomes a member of the immediate family of a subordinate on or after January 1, 1982, the persons affected by this rule shall have six (6) months to come into compliance.

Section 5-80 Re-assignment
(Effective November 1, 1980; Rule Revision Memo 127A)

5-81 General

An appointing authority may assign or re-assign an employee at any time to any position within the employee's classification in the same agency or within consolidated appropriation accounts except as provided below (Effective October 5, 1995; Rule Revision Memo 184B).

5-82 Effect on Status (Effective July 11, 1994)

A re-assignment in no way affects the status of the employee involved.

5-83 Re-assignment to a Part-Time Position or to a Limited Position (Effective July 11, 1994)

A. To a part-time position: An employee may be re-assigned from a full-time position to a part-time position only if the employee consents to the re-assignment.

B. To a limited position: An employee may be re-assigned from an unlimited position to a limited position only if:

1. The employee consents to the re-assignment; or

2. The employee is granted a leave of absence from the original position for the duration of the re-assignment.

5-84 Reasonable Accommodations for Individuals with Disabilities Policy
(Effective January 1, 2009; Rule Revision Memo 35C)

It is the policy of the OHR to provide equal employment opportunity to individuals with disabilities. This rule is intended to comply with and be interpreted consistently with the Americans with Disabilities Act of 1990 ("ADA"), as amended.

A. Disability discrimination:

No appointing authority, official, supervisor or employee shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, or other terms, conditions, or privileges of employment.

B. Reasonable accommodation:

A department or agency shall provide a reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless it can be demonstrated that the accommodation would impose an undue hardship on the operation of the department or agency.

C. Qualification standards and direct threat:

It is not a violation of this policy for the OHR to apply qualification standards, tests, or selection criteria or for an department or agency to apply selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability if such standards, tests, or selection criteria have been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation.

Qualification standards may include a requirement that an individual shall not pose a direct threat to the health or safety of the individual or other individuals in the workplace. Direct threat means a significant risk to the health or safety of others that cannot be eliminated by a reasonable accommodation.

D. Qualified individual with a disability:

A disabled individual is an individual who has:

1. A physical or mental impairment that substantially limits one or more of the individual's major life activities;

2. A record of such an impairment; or

3. Being regarded as having such an impairment.

A qualified individual with a disability is an individual with a disability who can perform the essential functions of the position he or she holds or to which he or she seeks re-assignment, with or without reasonable accommodation.

E. Interactive process:

1. If an employee (1) provides notice that the employee needs a reasonable accommodation to perform the essential functions of the employee's position; or (2) the department or agency has actual or constructive notice that an employee may have a disability for which the employee needs reasonable accommodation, the department or agency shall initiate an interactive process within twenty (20) calendar days or a longer period, if approved by the OHR Executive Director or designee and reasonable under the circumstances. The interactive process shall be a flexible, informal process that involves the department or agency, the employee and the OHR designee. The purpose of the interactive process shall be to determine if the employee (1) is disabled within the meaning of the ADA; and (2) if so, whether the employee can be reasonably accommodated in his or her position. The interactive process requires good faith participation from both the employee and the department or agency. The OHR designee shall make the final determination, after consulting with the department or agency, as to whether the employee is disabled under the ADA and can be accommodated in his or her position.

2. In making the determination that an employee has a disability within the meaning of this rule, the OHR, department, or agency may request and review medical records and other documentation in the possession, custody, or control of the employee or his or her health care providers. The OHR, the department, or agency also may obtain an independent medical evaluation for the purpose of gathering information needed to make this determination. Such examinations and evaluations shall be reasonable and paid for the department or agency where the employee is presently employed.

3. If the employee is determined not to be disabled as defined in this rule, disqualification proceedings may be initiated if the employee nevertheless is unable to perform the essential functions of the position.

4. If the employee is determined to be disabled as defined in this rule, the OHR, department or agency, and the employee shall endeavor to identify any reasonable accommodations the employee may need to perform the essential functions of his or her position. The preferred option always shall be a reasonable accommodation that allows the employee to remain in his or her existing job.

F. Re-assignment:

1. If it is determined during an interactive process that a disabled employee cannot be reasonably accommodated in his or her position and the employee expresses an interest in remaining employed with the City, the OHR, with the assistance of the department or agency, shall explore re-assignment to a vacant position as a possible reasonable accommodation. A vacant position is one that has been requisitioned by an appointing authority to be filled.

2. The disabled employee shall be offered a re-assignment to a vacant position that is equivalent in terms of pay and benefits or, if none is available, to a position of lower pay and benefits. The disabled employee must meet the minimum qualifications and requirements for the position as determined by the OHR. The employee does not need to be the best-qualified individual for the position in order to obtain it as a re-assignment.

   The OHR first shall attempt to identify a vacant position that is equivalent in terms of pay and benefits within the employee's department or agency. If none exist, the OHR shall attempt to identify a vacant position that is equivalent in terms of pay and benefits within another department or agency. If no equivalent position exists, the OHR shall attempt to identify a position of lower pay and benefits, first in the employee's department or agency, and then in another department or agency. The OHR designee shall provide to the employee a list of all vacancies for which the employee is qualified to perform. The employee may express his or her preference regarding the selection of a re-assignment position. However, the OHR designee is free to choose the re-assignment position to be offered to the employee. A department or agency to which a disabled employee is being re-assigned is required to cooperate with the re-assignment process coordinated by the OHR but may file a request to the OHR Executive Director to review the re-assignment placement within five (5) calendar days of the re-assignment notice if the department or agency reasonably believes that the employee will not be able to perform the essential functions of the position with or without reasonable accommodation.

   If the employee is re-assigned to a vacant position, the employee shall be provided any reasonable accommodation necessary for the employee to perform the essential functions of the re-assignment position.

   From the date that the employee expresses an interest in continued employment with the City, the OHR shall look for vacant positions for a period of three (3) months. If no vacant position becomes available during the three-month period, disqualification proceedings may be initiated. The responsibility to engage in the interactive process may terminate earlier if the employee withdraws his or her request for a reasonable accommodation.

During the interactive process, a disabled employee may decline a demotion re-assignment position and request the OHR to continue looking for comparable vacant positions within the three-month time period. However, if an employee declines an offer of a comparable position in terms of salary and benefits, the interactive process will cease. The OHR shall not be required to continue looking for suitable re-assignment positions and disqualification proceedings may be initiated. If no vacant position becomes available during the three-month period, disqualification proceedings may be initiated.

3. In identifying a vacant position to which a disabled employee may be re-assigned, the OHR shall analyze the employee's specific experience, skills and background, and the specific job duties of the vacant position by consulting with the department or agency in which the vacancy exists. If determined necessary, the OHR designee shall perform a job analysis of the vacant position.

4. If a disabled employee is re-assigned to a vacant position and the department or agency subsequently determines that the disabled employee is unable to perform the essential functions of the position, with or without reasonable accommodation, the interactive process will be resumed from the beginning and the OHR shall attempt to identify another vacant position to which the disabled employee can be re-assigned for a period not to exceed three (3) months. If an employee originally took a demotion, the OHR will look for positions at the original pay grade if the employee is able to perform the essential functions of that position with or without accommodations. The interactive process need not be resumed if the employee has performance problems in the position that are unrelated to his or her disability, or if the employee is dismissed as a corrective measure for misconduct.

5. Before rejecting or denying a reasonable accommodation by re-assignment to a job on the basis that the individual poses a direct threat to the health and safety of the employee or others, the OHR shall perform an individualized assessment of that individual's ability to perform safely the essential functions of the re-assignment position. In making this determination, a number of factors shall be considered, including but not limited to the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the imminence of the potential harm. The OHR will consider input from the individual, the experience of that individual in previous similar positions, medical judgment that relies on the best available objective evidence, the opinions of medical doctors and other health care providers, professionals or associates who have expertise in the medical condition involved, and/or direct knowledge of that individual's qualifications or ability to perform the job.

6. If the OHR believes that an individual with a disability poses a direct threat to himself or herself or others, the employee shall be advised of the reasons for the proposed rejection, including each essential function of the job which it has been determined the individual cannot safely perform and the reasons why the individual cannot safely perform those functions. The OHR shall invite the individual to provide, within a reasonable time, additional information regarding his or her ability to safely perform the job, with or without reasonable accommodation, including but not limited to information from other physicians and information about the individual's current and recent physical capabilities. The OHR shall maintain records of all factors considered in reaching its final decision.

7. Re-assignment shall not be to a position that constitutes a promotion. However, this does not preclude an employee from applying for promotion positions within the merit system.

8. Re-assignment is only available to current employees and is not available to applicants.

9. Re-assignment is limited to existing vacant positions or to positions that become vacant in the Career Service within the three-month time period.

10. The department or agency shall take all necessary steps to train the re-assigned employee in the duties of the position re-assigned, as it would do with any new employee.

11. A re-assignment to an employee cannot be denied because he or she is designated as a probationary or temporary employee. However, a probationary or temporary employee must have performed the essential job functions, with or without reasonable accommodation, before being eligible for re-assignment (Effective April 1, 2006; Rule Revision Memo 6C).

12. Disabled Classified Service employees (police officers and fire fighters) are eligible to seek re-assignment to a vacant Career Service position as a form of reasonable accommodation, if they cannot be reasonably accommodated in their Classified Service positions. Should a Classified Service employee with a disability be re-assigned to a vacant Career Service position as a form of reasonable accommodation, the employee will no longer be a Classified Service employee, but instead will be a new Career Service employee. Under this circumstance, the employee will be entitled to the pension given to Career Service employees after the appropriate number of years of service for vesting within the Career Service system. The employee is not entitled to retroactive vesting for this pension for his or her years of service as a Classified Service employee. This rule does not prohibit the employee from purchasing service credits subject to procedures established by the Denver Employees Retirement Plan. The employee's sick and vacation days that he or she accrued as a Classified Service employee will not be carried over to the new Career Service position; however, the employee will be given monetary payment for such leave upon separating from the Classified Service, in accordance with the Police or Fire Department's rules and regulations and collective bargaining agreement then in effect. The employee shall accrue paid time off as a new Career Service employee (Revised January 1, 2010; Rule Revision Memo 42C).

13. If an employee is re-assigned to either an equivalent or demotion position, the employee shall continue to receive the pay rate he or she earned in the former position unless this exceeds the range maximum of the pay range of the new classification, in which case the employee shall receive the range maximum of the pay range of the new classification (Revised October 17, 2010; Rule Revision Memo 47C).

G. ADA leave (Revised December 20, 2012; Rule Revision Memo 65C):

1. ADA leave shall be provided:

   a. During the interactive process if an employee is unable to perform his or her existing job;

   b. During any period of leave that is provided to the employee as a reasonable accommodation as a result of the interactive process.

2. ADA leave is unpaid leave, unless an employee elects to substitute available paid leave for unpaid ADA leave.

H. Retaliation and coercion:

1. It is a violation of this rule to discriminate against any individual because that individual has opposed any act or practice prohibited by this rule or because that individual filed a grievance or appeal, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing to enforce any provision contained in this rule.

2. It is a violation of this rule to coerce, intimidate, threaten, harass or interfere with any individual in the exercise or enjoyment of, or because that individual aided or encouraged any other individual in the exercise of, any right granted or protected by this rule (including, but not limited to, making a request for a reasonable accommodation).

I. Confidentiality and record keeping:

Information obtained during the interactive process regarding the medical history of an employee shall be collected and maintained on separate forms and in separate files and be treated as confidential, except that:

1. Supervisors, managers, human resources personnel and other City employees involved in the interactive process may obtain access to such information on a need to know basis.

2. Supervisors, managers, human resources personnel and other appropriate City employees may be informed regarding necessary restrictions on the work or duties of an employee and necessary accommodations.

3. First-aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

4. Information may be given to the state workers' compensation offices, and state second injury funds, in accordance with the state workers' compensation laws.

Section 5-90 Dual Incumbency
(Effective May 4, 2007; Rule Revision Memo 18C)

Subject to approval by the Budget and Management Office, an employee may be appointed to occupy a position currently occupied by another employee for a period not to exceed three (3) months. If it is desired to continue such an arrangement for more than three months, it shall be done by the creation of a limited position rather than dual incumbency in a single position.

DENVER CITY CHARTER §1.2 OFFICERS AND EMPLOYEES
DUAL EMPLOYMENT
§**1.2.8 – Holding other office or employment.**
(A) Employees and Appointed Charter Officers. No employee or appointed Charter officer shall have other employment or hold any public office that is incompatible with his or her duties. Every employee and appointed officer shall notify his or her appointing authority in writing before accepting any other employment or public office; newly hired employees and appointed officers shall report any outside employment or office immediately upon being hired or appointed. (B) Elected Charter Officers. Elected officers of the City shall not hold any other public elective office or any employment that is incompatible with their duties. Elected officers shall not hold any other employment with the City. Elected officers shall waive any additional compensation when they serve upon the governing board or body of any public body or any municipal or quasi-municipal corporation within which or part of which the City or a part of it is located, or of which the City is an interested or constituent member.
§**1.2.9 – Ethics and Conflicts of interest.**
(A) No officer or employee shall have any interest arising by contract or other relationship that creates a substantial conflict of interest with respect to his or her duties, unless the conflict can be avoided by abstention or disqualification from participating in a transaction without adversely affecting the interests of the City. Every employee and appointed officer shall report promptly in writing to his or her appointing authority any business activity or situation that may be or may become a substantial conflict of interest. **THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES**

Section 5-100 Dual Employment
(Effective June 7, 1962; Rule Revision Memo 130A: Revised October 17, 2010; Rule Revision Memo 47C)

The following rules shall apply as to dual employment in the Career Service:

A. Since a position is by definition an aggregate of duties to be performed by one (1) person, an employee may occupy only one (1) full-time position.

B. An employee may occupy more than one (1) part-time position, more than one (1) on-call position, or a combination of part-time and on-call positions provided that the total time worked does not exceed the equivalent of a full-time position (Effective December 18, 1980; Rule Revision Memo 2B).

Section 5-110 Compliance with the Immigration Reform and Control Act of 1986
(Effective May 21, 1987; Rule Revision Memo 96B)

5-111 Policy

The policy of the Board is to conform to the provisions of the Immigration Reform and Control Act of 1986.

5-112 New Hires

No person hired on or after May 21, 1987 shall be employed for more than three (3) working days unless such employee has submitted to the OHR the documentary evidence of identity and authorization to work required by the Immigration Reform and Control Act of 1986 and federal regulations based on that Act.

5-113 Installation

Persons employed between November 6, 1986 and May 21, 1987 shall provide to the OHR by May 30, 1987, documents required by the Immigration Reform and Control Act and regulations based on that Act, establishing identity and authority to work.

5-114 When Documents Required

The OHR Executive Director may establish the time and place for review of documents, provided the provisions of subsections 5-112 New Hires, and 5-113 Installation are met.

5-115 Penalty

In accordance with the requirements of the Immigration Reform and Control Act of 1986, any employee failing to comply with subsections 5-112 New Hires and 5-113 Installation shall be separated for the good of the service.

APPENDIX 5.A.

RELEVANT PROVISIONS FROM THE CITY CHARTER, ARTICLE IX, EMPLOYMENT, PART 1, CAREER SERVICE

§ 9.1.1 Career Service personnel system.

E. The Career Service shall comprise all employees of the City and their positions except:

(i) elected officers;

(ii) members of the Mayor's cabinet;

(iii) the Director of Excise and Licenses;

(iv) up to fifty employees appointed to serve at the pleasure of the Mayor in positions specifically designated or created by the Mayor in any department or agency of the City under the direct control of the Mayor;

(v) county court judges and magistrates;

(vi) members of the Classified Service of the Police and Fire Departments, the Police Chief if not a member of the Classified Service, and the Undersheriff;

(vii) attorneys and part-time employees employed by the District Attorney, other employees of the District Attorney excluded from the Career Service and placed in an alternate merit personnel system pursuant to state law, and up to ten employees appointed to serve at the pleasure of the District Attorney in positions specifically designated or created by the District Attorney in the District Attorney's office;

(viii) certified public accountants employed by the Auditor and up to five employees appointed to serve at the pleasure of the Auditor in positions specifically designated or created by the Auditor in the Auditor's Office;

(ix) employees of the Denver Art Museum, the Denver Museum of Nature and Science, the Denver Zoological Gardens, and the Denver Botanical Gardens;

(x) persons retained on a contractual basis to perform professional or technical services for limited periods of time;

(xi) employees of the City Council, Library Commission, Civil Service Commission, Board of Adjustment, and Denver Water; and

(xii) any hearing officers and up to two employees in positions specifically designated or created by the Career Service Board, appointed to serve at the pleasure of the Board.

(xiii) any employee appointed to serve at the pleasure of the mayor for the purpose of monitoring internal investigations and disciplinary actions in the Department of Safety, and any employees appointed by the monitor to serve at the pleasure of the monitor. The appointment of any monitor by the mayor pursuant to this or any other provision of the charter shall require confirmation by the city council.

(xiv) the Director of Elections and no more than one other employee in a position specifically designated or created by the Clerk and Recorder, appointed to serve at the pleasure of the Clerk and Recorder. Any employee of the Denver Election Commission as of July 16, 2007 and formerly excepted from the Career Service pursuant to this section shall retain his or her position as an employee of the Clerk and Recorder if the employee qualifies to retain the position in accordance with the rules of the Career Service Board.

This Appendix is provided for informational purposes and is not considered a part of the Rules.

RULE 6
EMPLOYEE TRAINING AND ORGANIZATIONAL DEVELOPMENT

(Effective April 1, 2006; Rule Revision Memo 6C)

Purpose statement:
(Revised January 12, 2007; Rule Revision Memo 13C)

The purpose of this rule is to set forth the responsibility, under the Denver Revised Municipal Code ("DRMC"), for developing and administering employee training and organizational development programs.

Section 6-10 Responsibility

A. Appointing authorities shall be responsible for providing services and support to managers/supervisors for training and developing their employees. Appointing authorities are responsible for assuring that training programs are geared to specific department or agency needs, are planned and established, and that their employees have an opportunity to participate in them.

B. The Office of Human Resources ("OHR"), in cooperation with other City departments and agencies, shall develop and make available to employees the City-wide training programs required by this Rule 6, as well as any other training programs it deems are necessary.

C. The OHR, in cooperation with departments and agencies, shall establish program standards, and document and maintain records of achievement for all OHR sponsored training and career development programs. The OHR shall also be responsible for the coordination, evaluation and monitoring of these programs.

Section 6-20 Mandatory Programs

(Revised January 22, 2010; Rule Revision Memo 45C)

A. All Career Service employees serving employment probation are required to complete training programs during their probationary period that address the following topics:

1. New employee orientation;

2. Ethics and accountability;

3. Preventing harassment, workplace violence and bullying; and

4. Any other training required by the DRMC and applicable Executive Orders.

B. Employees appointed to supervisory or managerial positions are required to complete supervisory training prior to the completion of their probationary period that addresses the following topics:

1. The Performance Enhancement Program and Performance Enhancement Program Reports;

2. Counseling and discipline; and

3. Employment laws and Career Service Rules.

C. Supervisory training is also required for employees promoted to positions with assigned supervisory duties in classifications which provide that supervisory duties may be assigned by position, even if these classifications are not ordinarily considered supervisory or managerial.

D. Before a request to re-allocate an employee to a supervisory or managerial classification can be accepted, the employee must have competed this supervisory training.

E. Failure to complete the required training course work shall result in the extension of probation until the course work has been completed, in accordance with Rule 5 **APPOINTMENTS AND STATUS**. City departments and agencies are expected to make sure their employees meet the training requirements of this rule.

F. Employees who have completed the required training within the three years prior to the effective date of appointment, promotion, or the submittal of a the re-allocation request are not required to take the training again as a condition of passing probation or of having the OHR consider a re-allocation request.

G. Departments or agencies may conduct training to fulfill the requirements established above, with the approval of the OHR Executive Director. Departments or agencies that conduct such training shall provide the OHR with documentation evidencing the completion of the required training. Such documentation shall include the course title, the names of employees who have completed the training, and the date of completion.

Section 6-30 Training Leave

The use of leave to take training courses is governed by Rule 10 **PAID LEAVE**.

APPENDIX 6.A.
SUPERVISORY AND MANAGERIAL CLASSIFICATIONS

The following list of classifications for which supervisory training is required is provided for informational purposes. Supervisory training may be required for other classifications not listed below based on subsequent changes to the Classification and Pay plan.

CLASSIFICATION TITLE	SUPERVISORY LEVEL	JOB CODE
Accounting Supervisor	6	CV1796
Agency Human Resources Director	4	CA2222
Agency Training Supervisor	6	CA2243
Animal Care Supervisor	6	CJ2473
Animal Control Investigation Supervisor	6	CN1808
Assistant Chief of Operations	4	CA2381
Assistant City Attorney – Division Director	5	CL1742
Assistant City Attorney – Section Supervisor	6	CL0359
Assistant Director Of Parks	7	CA0666
Associate Director of Physician Services	5	CO2725
Associate Director of Technical Physician Services	5	CO2728
Automotive Body Repair Supervisor	6	CJ2477
Automotive Service Center Supervisor	6	CJ2478
Aviation Customer Service Manager	7	CC2483
Aviation Customer Service Supervisor	6	CC2484
Aviation Noise Abatement Supervisor	6	CE2233
Aviation Operations Manager	7	CA0707
Aviation Operations Representative Supervisor	6	CA2487
Aviation Painting Supervisor	6	CJ2481
Aviation Planning Administrator	7	CE0376
Branch Manager	6	CA0910
Business Development Supervisor	6	CA2372
Buyer Supervisor	6	CA0722
Case Management Supervisor I	6	CA2691
Case Management Supervisor II	7	CA2697
Central Supply Supervisor	6	CJ2496
Chief Combination Inspector	6	CJ2499
Chief Paramedic	7	CO2716
Chief Medical Examiner and Coroner	6	CO2726
City Forester	7	CA0732
City Surveyor	4	CE0381
Concession and Asset Supervisor	6	CA0744
Construction and Maintenance Supervisor	6	CJ2500
Contact Center Director	5	CA2436

CLASSIFICATION TITLE	SUPERVISORY LEVEL	JOB CODE
Contact Center Operations Manager	4	CA2433
Contract Administration Supervisor	6	CA0750
Contract Compliance Supervisor	6	CA0753
Correctional Institutional Food Manager	7	CJ2507
County Court Marshal Supervisor	6	CN1867
Court Division Supervisor	7	CA0759
Crew Supervisor	6	CJ1869
Custodial Services Supervisor	7	CJ1872
Custodial Supervisor	6	CJ1874
Department Controller	5	CV2212
Deputy Director of Emergency Preparedness	7	CA0772
Deputy Manager of Aviation for Air Service Development, Marketing, and Public/Government Affairs	8	CA2211
Deputy Manager of Aviation for Finance and Administration	8	CA0775
Deputy Manger of Aviation for Maintenance Planning and Engineering	8	CA1533
Deputy Manager Of Aviation for Operations	8	CA0777
Deputy Public Trustee	6	CA0783
Deputy Sheriff Captain	7	CU1056
Deputy Sheriff Division Chief	7	CU1057
Deputy Sheriff Major	5	CU1058
Deputy Sheriff Sergeant	6	CU1059
Development and Planning Supervisor	6	CE1566
Diagnostic Imaging Supervisor	6	CO2707
Director of Aviation Maintenance	4	CA0794
Director of Employee Assistance	5	CA0806
Director of IT Customer Relationships	5	CI2407
Diversion Officer Supervisor	6	CN2164
Economic Development Supervisor	6	CA2174
Electrical Supervisor	6	CJ2516
Electronics Technician Supervisor	6	CJ2512
Engineer/Architect Supervisor	6	CE0403
Environmental Public Health Manager	4	CE2271
Environmental Public Health Program Supervisor	6	CE2270
Executive	9	CA1769
Executive Assistant to the Mayor	6	CA0860
Executive Manager	8	CA1760
Executive Manager	8	CE1761
Executive Manager	8	CI1762
Executive Manager	8	CV1913

CLASSIFICATION TITLE	SUPERVISORY LEVEL	JOB CODE
Facilities Superintendent	7	CJ2522
Field Superintendent	7	CJ1917
Fire Protection Supervisor	6	CE0410
Food Production Supervisor	6	CJ2524
Forensic Autopsy Technician Supervisor	6	CE2689
Forensic Scientist Supervisor	6	CE2195
GIS Photogrammetry Administrator	6	CI0344
Golf Course Operator	6	CJ2527
Golf Professional	6	CA2528
Graphics Supervisor	6	CA2532
Heavy Equipment Mechanic Line Supervisor	6	CJ2534
HVAC Supervisor	6	CJ2540
Hospital Housekeeping Manager	7	CJ1934
Human Resources Supervisor	6	CA0926
Human Resources Technician Supervisor	6	CA2219
Human Service Supervisor	6	CA2685
Imaging Operations Supervisor	7	CO2711
Information Technology Division Director	5	CI1565
Information Technology Supervisor	6	CI1563
Information Technology Technician Supervisor	6	CI1661
Institution Food Steward Supervisor	6	CJ2543
Internal Audit Supervisor	6	CV2241
Investigator Supervisor	6	CN1940
Land Surveyor Supervisor	6	CE2176
Landscape Architect Supervisor	6	CE0417
Landside Service Supervisor	6	CN1944
Laundry Supervisor	6	CJ2545
Legal Administrator	6	CA0895
Maintenance Control Supervisor	6	CA2554
Management Analyst Supervisor	6	CA2255
Manager 1	4	CA1744
Manager 1	4	CE2168
Manager 1	4	CI1745
Manager 1	4	CV1951
Manager 2	5	CA1748
Manager 2	5	CE1749
Manager 2	5	CI1750
Manager 2	5	CV1955
Manager of Air Service Development	6	CA2632
Marketing/Public Relations Administrator	6	CA1977
Materials Laboratory Administrator	6	CE2408

CLASSIFICATION TITLE	SUPERVISORY LEVEL	JOB CODE
Mechanic Line Supervisor	6	CJ2560
Medical Imaging Manager	7	CO2715
Medical Technologist Section Supervisor	6	CO0583
Medical Technologist Unit Supervisor	6	CO0585
Motor Vehicle Supervisor	6	CC2351
Multiple Trades Supervisor	6	CJ2562
Nursing Clinical Coordinator	6	CO0593
Nursing Operations Manager	5	CO0594
Nursing Program Manager	6	CO0595
Operational Supervisor I	6	CA2313
Operational Supervisor I	6	CV2357
Operational Supervisor II	7	CA2314
Operations Supervisor	6	CJ1982
Outreach Case Coordinator Supervisor	6	CA2692
Paramedic Dispatch Supervisor	6	CN2568
Paramedic Field Supervisor	6	CO2698
Paramedic Fleet Supervisor	6	CO2704
Paramedic Operations Supervisor	6	CH0544
Parking/Speeding Enforcement Supervisor	6	CN1984
Payroll Supervisor	6	CV2363
Permit Supervisor	6	CE1597
Plans Review Supervisor	6	CE2229
Plumbing Supervisor	6	CJ2573
Probation Officer Supervisor	6	CN1997
Program Manager	6	CA1714
Psychologist Supervisor	6	CO0608
Public Health Veterinarian	6	CO2712
Ramp Tower Supervisor	6	CA2184
Real Property Appraiser Supervisor	6	CV2008
Recreation Manager	7	CA0963
Recreation Supervisor	6	CA2584
Research Supervisor	6	CA0969
Safety and Industrial Hygiene Supervisor	6	CA2215
Security Supervisor	6	CN2018
Senior Physician	6	CO2723
Senior Technical Physician	6	CO2727
Senior Television and Video Producer	6	CA2588
Senior Transcriptionist	6	CC0304
Social Case Worker Manager	7	CO2046
Social Case Worker Supervisor	6	CO0625
Special Education Teacher Supervisor	6	CO2302

CLASSIFICATION TITLE	SUPERVISORY LEVEL	JOB CODE
Special Education Teaching Assistant Supervisor	6	CO2447
Stapleton Redevelopment Programs Manager	6	CA1008
Stockroom Manager	7	CJ2603
Stockroom Supervisor	6	CJ2604
Supervisor of Administrative Support I	6	CC1508
Supervisor of Administrative Support II	7	CC1513
Superintendent of Radio Communications	7	CT1652
Tax Audit Supervisor	6	CV2237
Tax Revenue Agent Supervisor	6	CV2132
Telecommunications Administrator	6	CI1017
Tenant Facility Project Supervisor	6	CE0439
Therapist Supervisor	6	CO2190
Traffic Signal Technician Supervisor	6	CJ2611
Turf Equipment Mechanic Supervisor	6	CJ2614
Underground Utility Investigator Supervisor	6	CN2082
Wastewater Quality Control Manager	7	CE1680
Wastewater Quality Control Supervisor	6	CE1712
Workers Compensation Claims Supervisor	6	CA1048
Youth Counselor Supervisor	6	CO2281
Zoo Area Supervisor	6	CA2102
Zoo Veterinarian	6	CO2713
Zoo Veterinarian (Hourly)	6	CO2714

SUPERVISORY LEVEL LEGEND

4 Manager 1 (1st Level Manager)
5 Manager 2 (2nd Level Manager/Core Middle Manager)
6 First Level Supervisor
7 Second Level Supervisor (Supervisor over supervisors)
8 Executive Manager (3rd level Manager & above, but excludes Top Manager)
9 Executive (Top Manager, including Charter Officers, Elected Charter Officers, City Librarian and OHR Executive Director)

This Appendix is provided for informational purposes and is not considered a part of the Rules.

RULE 7
CLASSIFICATION

(Effective May 3, 2006; Rule Revision Memo 8C)

Purpose Statement:

The purpose of this rule is to provide a process and create a framework to ensure like pay for like work within the City's merit-based personnel system through the use of a systematic method of individual or group classification reviews.

Section 7-10 Definitions

A. Allocation: The formal process of assigning a new position to its proper classification on the basis of the duties to be performed and the responsibilities to be exercised.

B. Audit: A fact-finding investigation of the work performed by the incumbent of a given position, including work processes, materials processed, actions taken, tools used, supervision exercised, and supervision received for the purpose of analyzing the kind and level of duties and responsibilities of the position.

C. Classification: One or more positions so nearly alike in the essential character of their duties and responsibilities that the same pay grade, title and specification can be applied, and such that they can fairly and equitably be treated alike under like conditions for all other personnel purposes.

D. Classification specification: A written statement that sets forth the characteristic duties and responsibilities that distinguish a given classification from other classifications, and the minimum education, experience and licensure/certification requirements necessary for appointment to a position in that classification. Classification specifications are intended to provide a basic framework for recruitment, compensation, performance management and employee development. They also provide a means of determining the allocation of work, lines of authority, and other relationships between positions.

E. Classification title: The designation of a classification which becomes the official title of all positions allocated to that classification.

F. Classification and pay plan: A list of classification titles and attendant pay rates covering all classifications in the Career Service and all classifications not in the Career Service except Charter officers, the ranks of the classified service in the Police and Fire Departments, Deputy Sheriffs, Deputy Sheriff Majors, Deputy Sheriff Division Chiefs, and the Undersheriff.

G. Position: The aggregate composition of duties and responsibilities performed by one employee.

H. Provisional classification: A proposed change to the classification and pay plan that results in a new classification or changed pay rate for an existing classification that has been approved by the Career Service Board ("Board") but not by the City Council. Provisional classifications may be utilized without City Council approval for up to six months after the effective date of the Board approval or until the City Council disapproves the proposed change.

I. Re-allocation: The formal process of assigning an existing position to its proper classification on the basis of the duties performed and the responsibilities exercised.

J. Working title: The title of a position, which may differ from the classification title, used in a given agency for operating purposes, or by the Office of Human Resources ("OHR") for recruiting purposes.

Section 7-20 Classification and Pay Plan

The OHR is responsible for developing, maintaining, and administering classifications and attendant pay plans for all positions covered by the classification and pay plan.

7-21 Changes to the Classification and Pay Plan

A. The OHR Executive Director shall recommend changes to the classification and pay plan to the Board.

B. Recommended changes to the classification and pay plan proposed by the OHR Executive Director shall be approved, modified or rejected by the Board after a public hearing as provided in Rule 2 **OFFICE OF HUMAN RESOURCES**.

C. Any changes to the classification and pay plan require submission to the City Council for approval.

7-22 Changes to Classification Specifications

Changes to classification specifications that do not involve changing classification titles and/or attendant pay rates do not require City Council approval, and may be made by the OHR Executive Director without a public hearing before the Board.

Section 7-30 Classification of Positions

7-31 Responsibility for the Establishment of Positions and Assignment of Duties

Appointing authorities may initiate the creation of new positions and have the responsibility to assign duties to such positions. Appointing authorities may also change duties that are assigned to positions under their authority regardless of whether those positions are filled or vacant. Duty assignments may be temporary or regular, incidental or essential, and may include changes in location of work and changes in equipment and tools.

7-32 Allocation of New Positions

Every position covered by the classification and pay plan shall be allocated to a classification in that plan. Such allocation shall be made by the OHR on the basis of the essential duties of the position and in accordance with generally accepted personnel standards and procedures and as set forth in this Rule 7.

7-33 Re-Allocation Of Existing Positions

A. When the duties of an existing position are changed to the extent that the position is more similar to positions in other classifications than to positions in its own classification, the position should be re-allocated to a more appropriate classification in accordance with this Rule 7.

B. In order to maintain the classification and pay plan, the OHR may re-allocate:

1. Vacant positions on the basis of the essential duties of the position; and

2. Filled positions by conducting audits or maintenance studies.

7-34 Audits

A. An appointing authority may submit a request for, or the OHR may initiate, an audit of a filled position to determine if it is correctly classified, when there has been:

1. A significant change in the type or level of duties and responsibilities;

2. A re-organization affecting a number of employees, which may involve significant additions of new equipment, or substantial changes in methods or procedures; or

3. A maintenance study resulting in changed classification specifications.

B. Appointing authorities are encouraged to submit audit requests to the OHR as soon as possible after the duties of a position have been permanently changed. Requests must be made using the OHR Request for Classification Consideration form.

C. When an appointing authority requests re-allocation of a position to a supervisory or managerial classification (as described in Appendix A to Rule 6 **EMPLOYEE TRAINING AND ORGANIZATIONAL DEVELOPMENT**) from a classification that is not a supervisory or managerial classification:

1. The appointing authority shall provide a list of the position numbers, classification titles, and names of subordinate staff; and

2. The audit request will not be accepted by the OHR until the incumbent has taken the supervisory training required by Rule 6 **EMPLOYEE TRAINING AND ORGANIZATIONAL DEVELOPMENT**, and passed the applicable first-line supervisor test.

(Revised January 22, 2010; Rule Revision Memo 45C).

D. Audit requests will not be granted in the following situations:

1. For limited positions that are not budgeted or not anticipated to be budgeted past the fiscal year in which the audit was requested;

2. For on-call positions, unless re-allocation responsibility has been delegated to the appointing authority under the Progressive Classification Series Program;

3. When there is a vacant position in the incumbent's work unit which is in the classification to which the audit request seeks to re-allocate the incumbent's position;

4. For any positions currently included in a maintenance study;

5. As an alternative to promotion; or

6. As a substitute for disciplinary procedure.

E. An employee may petition an appointing authority for the purpose of asking for reconsideration of an appointing authority's denial to request an audit. The employee may send a copy of the petition to the OHR. The OHR may choose to initiate an audit or maintenance study if warranted under this Rule 7.

F. Progressive Classification Series Program:

1. A progressive classification series consists of entry, developmental and full performance level classifications where the levels of the duties are different, but the types of duties and nature of the work are the same.

2. Under the progressive classification series program, re-allocation responsibility is delegated by the OHR to an appointing authority.

3. Appointing authorities may re-allocate employees within the progressive classification series once they meet criteria established by the appointing authority and agreed to in advance by the OHR. These criteria shall be reflected in the Progressive Classification Series Re-allocation Form developed by appointing authorities and the OHR for each classification in a progressive classification series. This form will be used to process re-allocations under this program.

4. The OHR retains the responsibility of reviewing completed Progressive Classification Series Re-allocation Forms prior to processing a re-allocation to ensure compliance with the pre-established criteria.

7-35 Maintenance Studies

A. The OHR may initiate and conduct maintenance studies, covering multiple positions in one or more classifications, in order to maintain the classification and pay plan.

B. When an appointing authority creates a new position or changes the duties assigned to an existing position in connection with a re-organization, those positions shall be allocated or re-allocated to the appropriate classification simultaneously with the implementation of the re-organization whenever possible.

7-36 Effect of Re-allocation on Incumbents

A. An employee whose position is re-allocated must meet the minimum education, experience, and licensure/certification requirements of the new classification. The OHR Executive Director may substitute other appropriate factors for the minimum education and experience requirements of the position, based on the circumstances presented by a particular situation, but may not make a substitution for licensure or certification requirements.

B. An incumbent with career status who has been found eligible to remain in the re-allocated position shall acquire career status in the new classification as of the effective date of the re-allocation. If the incumbent has probationary status, the employee shall complete the remainder of such probationary period before attaining career status in the new classification.

7-37 Effective Dates

A. If it is determined, as a result of an audit or maintenance study, that changes to the classification and pay plan are necessary, the effective date of any resulting changes to the classification and pay plan shall be the beginning of the first work week following approval by the Mayor or by the City Council over the Mayor's veto. Provisional classifications resulting from changes to the classification and pay plan may be used upon approval by the Board, but use for longer than six months is contingent upon City Council approval (Revised February 22, 2013; Rule Revision Memo 4D).

B. If a position is to be re-allocated as a result of an audit or maintenance study without requiring changes to the classification and pay plan, the effective date shall be the beginning of the first work week following the classification decision by the OHR.

C. If a position is to be re-allocated under the progressive classification series program, the effective date shall be the beginning of the first work week following the date of the appointing authority's signature on the Progressive Classification Series Re-allocation Form.

Section 7-40 Requests for Administrative Review

An appointing authority may ask the OHR Executive Director for an administrative review of a classification decision within ten (10) calendar days of the date of notice of the audit or maintenance study results. The OHR Executive Director or designee shall review the decision and provide a written response to the appointing authority.

RULE 8
COMPENSATION

(Effective January 1, 2006; Rule Revision Memo 2C;
Revised July 1, 2009; Rule Revision Memo 38C)

Section 8-10 Definitions

A. Benchmark classification: A classification that is representative of several classifications within an occupational group for which external pay data can be readily collected.

B. Classification: One or more positions so nearly alike in the essential character of their duties and responsibilities that the same pay grade, title and specification can be applied, and such that they can fairly and equitably be treated alike under like conditions for all other personnel purposes.

C. Market survey: The collection, analysis and reporting of external pay data for a number of benchmark classifications.

D. Occupational groups: Groupings of classifications that are so similar in the nature of the work performed that the same pay survey adjustments can be applied.

E. Pay survey adjustment: A pay survey adjustment is a change in the pay structure resulting from a comparison with the pay prevailing in the Denver Metropolitan Area.

F. Pay grades: Identifying numbers for pay ranges within a pay schedule.

G. Pay ranges: The range of pay in a pay grade beginning at the range minimum and going to the range maximum of the pay grade. A pay range is assigned to a classification by the classification and pay ordinance (Revised October 17, 2010; Rule Revision Memo 47C).

H. Pay schedules: A pay schedule is a listing of the pay grades, and the corresponding pay ranges (Revised October 17, 2010; Rule Revision Memo 47C).

Section 8-20 Compensation Policy

The policy of the City and County of Denver is to provide generally prevailing compensation to City employees as provided by the City Charter and the Denver Revised Municipal Code ("DRMC"). This compensation policy is designed to attract, retain and motivate employees in order to support and reinforce the City's vision, values, and strategic business goals. To implement this compensation policy the Office of Human Resources ("OHR") will:

A. Perform market surveys to ensure the City's external market competitiveness;

B. Provide like pay for like work within classifications; and

C. Utilize pay for performance plans.

Section 8-30 Establishing and Maintaining Pay Schedules

A. The OHR shall establish the following pay schedules in order to facilitate the City's compensation policy:

1. Non-exempt salary schedules: applicable to those classifications not exempt from overtime pursuant to the provisions of the Fair Labor Standards Act (FLSA);

2. Community rate schedules: applicable to classifications in the sports and entertainment field which do not have traditional year-round or seasonal schedules. These classifications are non-exempt under the FLSA;

3. Short-range schedules: applicable to certain classifications comprised solely of on-call positions used on a seasonal basis. All classifications in the short range schedule are non-exempt under the FLSA;

4. Trainee schedules: applicable to classifications included in the Trainee Program. These are single rate classifications that do not have ranges. The FLSA exemption varies according to the type of work performed; and

5. Exempt salary schedules: applicable to those classifications exempted from overtime under the FLSA.

B. Each occupational group shall have one or more of these pay schedules assigned to it as appropriate.

C. Classifications shall be assigned to a pay grade within the appropriate pay schedule.

Section 8-40 Pay and Benefit Survey Process

8-41 Establishing Pay for Classifications

A. The pay for a classification shall be set at generally prevailing rates of pay for comparable jobs in the Denver Metropolitan Area using the market survey process described below.

B. The OHR shall perform an annual market analysis to determine what pay survey adjustments, if any, should be recommended for occupational groups and/or classifications covered by the classification and pay plan (as defined in Rule 7 **CLASSIFICATION**).

C. If market survey data are inadequate or inappropriate for a statistical analysis, pay for a classification will be determined based on internal relationship comparisons to other City and County of Denver classifications according to practices established by the OHR (see Appendix).

8-42 Market Surveys

In order to provide generally prevailing compensation to employees, the OHR shall use market surveys which include a sample of public and private sector employers and jobs throughout the local market or other appropriate geographical areas.

A. Benchmark classifications shall be identified in each occupational group. Market data shall be used to analyze these classifications in order to determine what pay survey adjustments, if any, should be recommended.

B. The local market shall be defined as the “Denver Metropolitan Area” which includes Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson counties.

C. The use of other geographical area data will be determined on a case-by-case basis for a classification. When other geographic areas are selected to be used in a survey, several factors are considered such as, but not limited to, the market where such jobs are recruited for, comparable organizations, populations and cost of living factors.

D. Whenever salary and related information is furnished to the OHR on the condition that such material remains confidential, the individual pay data by organization in such surveys shall not be disclosed.

E. The OHR shall establish written criteria for selecting surveys, which must be published and followed. Before changing the criteria for selecting surveys, the OHR must inform the Board at a public meeting (see Appendix).

8-43 Implementation of Pay Survey Recommendations

A. In accordance with Rule 2, the Career Service Board ("Board") shall hold a public hearing to determine whether to accept, reject, or modify the pay survey recommendations.

B. The Board provides their recommendations to the Mayor and City Council as required by ordinance.

C. City Council and the Mayor may accept, reject, or modify the recommendations.

D. The OHR shall implement the pay survey adjustments as approved by City Council and the Mayor and as provided in the DRMC.

8-44 Employee Benefits

A. Upon request of the Mayor, City Council, or the Board, the OHR Executive Director shall survey and recommend changes to employee benefits as necessary to attract and retain a qualified and competent workforce and to maintain the City's policy to provide generally prevailing compensation to employees.

B. The Board shall conduct at least one public hearing on any proposed changes to employee benefits prior to the OHR Executive Director making any recommendations to the Mayor and City Council.

APPENDIX 8.A.

OHR PRACTICES FOR DETERMINING INTERNAL RELATIONSHIP COMPARISONS BETWEEN CITY AND COUNTY OF DENVER JOB CLASSIFICATIONS (REFERRED TO IN RULE 8-41 C.)

These comparisons will include, but not be limited to items such as the:

1. Duties and responsibilities of the job;

2. Level of decision making;

3. Level of supervision exercised and received;

4. Level of difficulty;

5. Minimum qualifications.

This Appendix is provided for informational purposes and is not considered a part of the Rules.

APPENDIX 8.B.

CRITERIA FOR SELECTING MARKET SURVEYS
(REFERRED TO IN RULE 8-42 E.)

The following criteria shall be used to select published surveys:

1. The survey should provide written documentation of the methodology used to select the sample of the organizations surveyed; match the type of work performed; and collect, analyze, and report the data.

2. The methodology outlined should meet professionally accepted compensation standards.

3. The survey should provide written documentation showing that only organizations meeting criteria established in these rules were surveyed.

4. The survey should provide a list of the organizations surveyed.

5. The survey must provide descriptions of work in sufficient detail to ensure comparable jobs are being matched.

6. The survey must provide an effective date for all data reported.

7. The survey should provide rate structure data, actual rates of pay be quartile, median, and/or weighted average; and the number of organizations and rates the results represent.

8. The number of firms surveyed must provide a large enough sample to be considered representative of the generally prevailing wage.

The OHR is required to establish written criteria for selecting market surveys by the Career Service Rules. These criteria must be published in the Appendix to this Rule 8 and followed. Before changing this Appendix 8.B., the OHR must inform the Board at a public meeting.

RULE 9
PAY ADMINISTRATION

Purpose statement:

The purpose of this rule is to explain the establishment and administration of pay practices (except merit increases and merit payments), and hours of work.

Section 9-5 Definitions
(Revised October 17, 2010; Rule Revision Memo 47C)

A. Classification series: The arrangement in sequence of classes that are alike in the kind but not in level. For the purposes of a market adjustment within the salary range, a classification series shall include first line supervisors and lead workers.

B. Demotion: An appointment of an employee to a position in a classification in which the range minimum of the pay grade of the new classification is lower than the range minimum of the classification previously held.

C. Emergency: An emergency shall include the following events: fire, flood, catastrophe, severe weather conditions that impact public safety or essential services; other unforeseeable emergency where a station must be staffed and another employee is not available for work; or an occurrence affecting the general public which requires immediate action. A declared emergency shall mean an emergency declared by the Mayor or an appointing authority that complies with the definition of emergency stated above (Revised June 17, 2011; Rule Revision Memo 55C).

D. Essential city services: The determination of what constitutes an essential City service shall be made at the discretion of appointing authorities (Revised June 17, 2011; Rule Revision Memo 55C).

E. Market Conditions: Factors and trends in the market as determined by a compensation analysis that may affect compensation rates such as the supply and demand of workers.

F. Pay Factors: Appointing authorities who wish to hire employees at higher than the range midpoint, or increase the salary of promoted employees by more than 8.0%, or provide an equity adjustment, shall base that decision on one or more of the following pay factors (Revised December 21, 2012; Rule Revision Memo 66C):

    1. Market conditions;

    2. Related experience;

    3. Previous work record;

    4. Salary history;

5. Specialization of education;

6. Quality/quantity of education.

7. Internal equity;

8. Level of responsibility accepted.

G. Promotion: An appointment of an employee to a position in a classification in which the range minimum of the pay range of the new classification is higher than the range minimum of the pay range of the classification previously held.

H. Re-allocation: The formal process of assigning an existing position to its proper classification on the basis of the duties performed and the responsibilities exercised.

I. Promotional re-instatement: A promotion of an employee resulting from referral from a re-instatement list (Effective January 20, 2012, Rule Revision Memo 57C).

J. Re-instatement: An appointment of a laid off employee resulting from referral from a re-instatement list (Effective January 20, 2012, Rule Revision Memo 57C).

K. Re-promotion: A promotion of an employee to a position in a higher classification in which the employee was previously employed within the preceding five (5) years, or to a successor classification; or to any classification for which the employee is qualified, with the same or intervening range minimum as the former classification. Appointments that meet the definition of a promotional re-instatement are not re-promotions.

L. Transfer: An appointment of an employee to one classification from another, if the range minimum of the pay range of the new classification is the same as the range minimum of the pay range of the classification previously held.

Section 9-6 Designees

Appointing authorities, including the Office of Human Resources ("OHR") Executive Director, may delegate any authority given to them under this Rule 9 to a subordinate employee.

Section 9-10 Pay practices

A. Pay practices include, but are not limited to items such as pay when first employed, changes in pay resulting from changes in position or classification, differentials, overtime pay, standby pay, merit increases and merit payments.

B. The kind and level of pay practices for Career Service employees shall be determined by the Career Service Board ("Board") following a survey of other employers or based on the City's needs.

C. Applicability to Deputy Sheriffs: None of the provisions of this Rule 9 shall apply to employees who hold positions in classifications in the Undersheriff pay schedules.

Section 9-20 Pay When First Employed
(Revised December 21, 2012; Rule Revision Memo 66C)

A. An appointing authority may set pay for a new employee higher than the range minimum (but not to exceed the range maximum of the applicable pay range) if necessary to obtain the services of an unusually well-qualified person.

B. The appointing authority may decide to appoint an employee at a pay rate higher than the range minimum if the appointing authority determines that one or more of the pay factors defined in this Rule 9 justify such a starting salary. In any event, qualifications of the new employee should exceed the minimum qualifications stated in the classification specification, and internal equity shall be considered.

Section 9-30 Changes in Classification and Pay
(Revised October 17, 2010; Rule Revision Memo 47C)

A change in an employee's classification may occur through promotion, transfer, demotion, return from promotional probation, re-allocation, or re-instatement.

9-31 Promotion and re-promotion

A. Upon promotion an employee's pay shall be increased by at least six and nine-tenths percent (6.9%). In no event shall the pay upon promotion be lower than the range minimum or exceed the range maximum of the pay range of the new classification.

B. The appointing authority may increase an employee's pay by more than eight percent (8%) upon promotion, if the appointing authority determines that one or more of the pay factors defined in this Rule 9 justify such an increase (Revised December 21, 2012; Rule Revision Memo 66C).

C. Within the short range pay schedule the employee's pay shall be increased by five percent (5%), but not to exceed the range maximum of the pay range of the new classification.

D. Demotion and subsequent re-promotion:

1. If an employee demotes without a loss in pay, that employee is not eligible for an increase in pay upon re-promotion if such re-promotion occurs within twelve months following the date of the demotion.

2. In all other circumstances, an employee being re-promoted will have their pay set under the provisions of paragraph 9-31 A.

9-32 Transfers

When an employee transfers, the employee shall receive the same pay as before the transfer, unless that would be more than the range maximum of the new pay range of the new classification. In that case the employee's pay shall be set at the range maximum of the pay range of the new classification.

9-33 Demotion

A. Voluntary demotion:

1. A voluntary demotion is a demotion initiated through the request or application of an employee.

2. When an employee voluntarily demotes, pay shall be set by the appointing authority and shall not be decreased by more than six and nine-tenths percent (6.9%), unless doing so is necessary to keep the employee's pay from exceeding the range maximum of the pay range of the new classification. Before the pay can be set at a pay rate higher than the employee's current pay rate, the OHR Executive Director's prior approval will be required.

B. Demotion in lieu of lay-off: Upon a demotion in lieu of lay-off, the employee shall continue to receive the pay rate he or she earned before the demotion unless this exceeds the range maximum of the pay range of the new classification, in which case the employee shall receive the range maximum of the pay range of the new classification.

C. Involuntary demotion:
(Revised July 19, 2012; Rule Revision Memo 64C)

1. An involuntary demotion is a demotion initiated:

a. Through disciplinary action in accordance with Rule 16 **DISCIPLINE AND DISMISSAL**; or

b. In lieu of separation during employment probation in accordance with Rule 5 **APPOINTMENTS AND STATUS**.

2. When an employee is involuntarily demoted, pay shall be set by the appointing authority. At least a six and nine-tenths percent (6.9%) reduction shall be required.

D. In no event shall the pay upon demotion be lower than the range minimum or exceed the range maximum of the pay range of the new classification.

9-34 Return from Promotional Probation

When an employee is returned from promotional probation, the employee shall receive the same pay the employee was receiving before the promotion. However, this amount shall be adjusted to take into account the effect of any pay changes (such as a merit increase) or classification changes to the employee's former classification that occurred during the period after the promotion and before the return from promotional probation.

9-35 Re-allocation

A. When a position is re-allocated to another classification, the incumbent shall receive the same pay as before the re-allocation unless that would be less than the range minimum of the pay range of the new classification. In that case the employee's pay shall be set at the range minimum of the pay range of the new classification. If the employee's pay is higher than the range maximum of the pay range of the new classification, the employee's pay shall remain at the employee's existing rate of pay until such time that either:

   1. The employee changes positions; or

   2. The pay range of the new classification catches up to the employee's rate of pay when the pay range is adjusted.

B. When an employee meets the requirements to progress to a higher classification in a current delegated progressive classification series and the OHR Executive Director approves the progression to the higher classification, the employee's pay shall be increased by two and one quarter percent (2.25%). In no event shall the employee receive less than the range minimum of the pay range of the new classification.

C. When a classification is changed to a different occupational group, pay grade, and/or pay range as the result of a re-allocation as described in Rule 7 **CLASSIFICATION**, the pay for employees in that classification shall remain the same as it was before the re-allocation. In no event shall an employee receive less than the range minimum of the pay range of the new classification.

9-36 Re-instatement Appointment or Promotional Re-instatement Appointment

Upon re-instatement or promotional re-instatement, either after lay-off or after demotion in lieu of lay-off, an employee's pay shall be set at the rate of pay the employee received immediately prior to such lay-off or demotion in lieu of lay-off. If payment at this rate would result in a decrease in pay for a current City employee, the pay rate shall be set at the employee's present rate of pay. In no event shall the pay rate be lower than the range minimum of the pay range.

9-37 Counter offer (Revised May 20, 2008; Rule Revision Memo 28C: Re-numbered December 21, 2012; Rule Revision Memo 66C):

A. A counter offer may be made for any of the reasons listed below:

1. To retain an employee whose skills, knowledge or abilities are deemed essential to the mission of the City or a department or agency;

2. To avoid recruiting and training costs when those costs clearly exceed the costs of a counter offer;

3. When it has been determined that turnover rates in a classification exceed the calculated turnover rate for that occupational group or classification and pay has been determined to be a significant cause; or

4. When the vacancy rate within a classification reaches a level where additional loss of personnel may interfere with the City's ability to provide adequate levels of services to the public.

B. An appointing authority may make a counter offer to an employee when the following conditions have been met:

1. The base salary and employee benefits the employee will receive at the prospective employer are greater than the base salary and employee benefits the employee is currently receiving from the City;

2. The counter offer does not exceed the range maximum of the pay range the employee occupies at the time the offer is extended (Revised October 17, 2010; Rule Revision Memo 47C);

3. The prospective employer is not a department or agency of the City; and

4. The appointing authority has verified the authenticity of all job offers which constitute the basis for a counter offer.

C. The appointing authority shall submit a copy of the written offer of employment from the prospective employer with the Personnel Action Form.

9-38 Interim market adjustments
(Re-numbered December 21, 2012; Rule Revision Memo 66C)

A. The Board, following a public hearing, may make a market adjustment in a pay practice, or create a temporary pay practice, if the Board finds that all of the following conditions exist:

1. Numerous vacancies exist in the classification(s) that will be affected by the proposed pay practice;

2. Recruitment has not been effective;

3. Retention rate is low; and

4. Market driven personnel shortages in the classification(s) are causing difficulty in fulfilling an essential mission of the City.

B. An interim market adjustment shall remain in effect for up to one (1) year. Nothing in this subparagraph prevents a new market adjustment from being established for the same classification(s), provided that all of the requirements of the previous subparagraph are met.

9-39 Pay adjustment within the salary range (Revised September 21, 2010; Rule Revision Memo 48C: Re-numbered December 21, 2012; Rule Revision Memo 66C):

A. An appointing authority may adjust pay for an existing employee, within that employee's current salary range, if the purpose is to eliminate pay inequity created by external market conditions, so long as the existing employee's pay is being compared with the pay of a subsequent hire from outside the City in the same department or agency if the following conditions are met:

1. Employees at or above the level of Manager 1 are eligible for this pay adjustment only if the subsequent hire is also at or above the level of Manager 1.

2. Other employees are eligible for this pay adjustment if the subsequent hire is:

a. In the same classification; or

b. In the same classification series; or

c. In a classification in the same occupational group within the same career path performing similar types of duties; or

d. Subordinate to the existing employee in the existing employee's chain of command.

3. The effective date of the subsequent hire's employment occurred no more than one year before the request for the pay adjustment is made to the OHR Executive Director. Exceptions to this limitation may be granted by the OHR Executive Director upon good cause shown.

B. A pay adjustment within the salary range requires the approval of the OHR Executive Director. The effective date of any such pay adjustment shall be the beginning of the work week following approval by the OHR Executive Director.

C. The appointing authority's request for approval shall explain how external market conditions have caused the pay inequity between the existing employee's pay and that of the subsequent hire. This explanation should include information about how pay factors (as defined in this Rule 9) have affected the pay inequity between the two employees.

Section 9-50 Pay Differentials and Pay Practices
(Re-numbered December 21, 2012; Rule Revision Memo 66C)

9-51 Shift Differential
(Revised September 14, 2008; Rule Revision Memo 31C)

A. Employee eligibility:

1. Employees in classifications in non-exempt pay schedules are eligible for shift differential, unless the employee is eligible for the health care differential as provided in this Rule 9 **PAY ADMINISTRATION**.

2. Employees in classifications in exempt pay schedules are not eligible for shift differential, unless the employee is in a classification:

   a. In which the Board has approved overtime based on community practice (unless also eligible for the health care differential as provided in this Rule 9 **PAY ADMINISTRATION**); or

   b. Which is a first-line supervisory classification in which the employee's primary duties include the direct supervision of employees who have no subordinate supervisors and are receiving shift differential for the time the employee is supervising them.

3. Employees in classifications in the short range or community rate pay schedules are not eligible for shift differential.

4. The OHR Executive Director, upon the request of an appointing authority, may allow a department or agency to exclude otherwise eligible employees from receiving shift differential based on community practice. Requests based on other reasons require submission by the OHR Executive Director and approval by the Board.

B. The following rates shall be paid for shift differential:

1. Night rate: Twelve percent (12%) of the current hourly rate of pay.

2. Evening rate: Seven percent (7%) of the current hourly rate of pay.

C. Shift differential shall be paid for all hours worked by an eligible employee in a work day under the following conditions:

1. If at least half of the hours worked occur between 11 p.m. and 7 a.m. the employee shall receive the night rate.

2. If at least half of the hours worked occur between 3 p.m. and 11 p.m. the employee shall receive the evening rate, unless the other half of the hours worked occur between 11 p.m. and 7 a.m., in which case the employee will receive the night rate.

3. If neither subparagraphs 1 or 2 are applicable, but at least half of the hours worked occur between 3 p.m. and 7 a.m., the employee shall receive the applicable rate for the period in which a majority of the hours occur. If these hours are evenly divided between 3 p.m. and 11 p.m. and 11 p.m. and 7 a.m., the employee shall receive the night rate.

D. Shift differential shall not be paid during any period of paid or unpaid leave.

9-52 Equipment Differential

A. Eligibility:

1. Equipment differential shall be paid to employees who are temporarily assigned to operate equipment, which is at a higher level classification than the employee's current classification, and who are not receiving additional pay for a work assignment outside of job classification.

2. Employees in on-call positions and in classifications listed in the short-range pay schedule shall be entitled to equipment differential.

B. Equipment differential shall be paid under the following conditions:

1. The equipment being operated is on the Board's approved equipment list for payment of equipment differential.

2. Assignment in the higher level classification must last for less than thirty (30) days. If all authorized limited positions for a term of nine (9) months or less are filled, the thirty-(30) day limit is waived.

C. The pay shall be ten percent (10%) of the current hourly rate of pay for each hour worked in the next higher level classification. The pay shall be fifteen percent (15%) of the current hourly rate of pay for each hour worked in the second higher level classification and above.

D. The total base pay for any pay period, excluding overtime and shift differential, shall not exceed the range maximum of the higher level classification (Revised October 17, 2010; Rule Revision Memo 47C).

9-53 Health Care Differential

A. Career Service employees who are employed by Denver Health and Hospital Authority ("DHHA") in classifications in the Health Technical and Related Support, Health Professional, and Doctors occupational groups are eligible for health care differentials paid to comparable classifications at DHHA.

B. The differentials, eligibility criteria and rates shall be established by DHHA.

9-54 Heavy Equipment Mechanic Trainer Differential
(Effective June 23, 2008; Rule Revision Memo 29C)

A. A Heavy Equipment Mechanic ("HEM") who is assigned HEM trainer duties by an appointing authority shall be eligible for a differential of $2.25 per hour for all time spent performing HEM trainer duties (but not to exceed four hundred hours per calendar year).

B. The appointing authority shall select eligible HEM trainers through a formal process that shall include submission of an application, a formal interview, and demonstration and evaluation of technical skills.

C. 1. The appointing authority shall provide a training plan which shall include the criteria that will be used for selecting HEM trainers to the OHR Executive Director for approval.

2. The appointing authority shall provide the name(s) of any eligible employee(s) to the OHR prior to payment of the differential.

D. An appointing authority may terminate the assignment of training duties to an employee at any time. The appointing authority shall notify the OHR when an employee is no longer assigned training duties.

9-55 Standby Pay
(Revised July 25, 2006; Rule Revision Memo 11C)

A. Appointing authorities may schedule employees to be on standby duty only when there is a reasonable anticipation that the employee will have to respond and perform work immediately. Eligible employees shall receive an amount equal to one and one half (1 1/2) hours of work at the employee's straight time hourly rate for each eight hours the employee is on standby duty.

B. To be eligible for standby pay, the employee must be:

1. Eligible for overtime under the Fair Labor Standards Act ("FLSA") or under paragraphs A, B or D of subsection 9-93 Overtime Exceptions;

2. Scheduled to be available by pager, cellular phone, or telephone;

3. Required to respond to a call and perform work within a designated amount of time not to exceed two hours;

4. In a non-impaired condition that allows the employee to safely perform job duty assignments; and

5. Subject to disciplinary action if he or she does not respond to the call within the designated amount of time.

C. When an eligible employee on standby is required to perform work, standby pay will be suspended and the employee will be paid basic pay or overtime pay, as appropriate, for the period the employee actually performs work.

D. An employee who merely carries a cellular telephone or pager as a routine part of his or her job duties is not eligible for standby pay unless all of the conditions set forth in paragraph B of this subsection are met.

9-56 Call Back Pay

A. Overtime eligible employees required by the appointing authority to report back to the work site shall be paid a minimum amount equal to two (2) hours of work at the employee's scheduled rate of pay from the time the employee begins work.

B. Employees who work more than two hours shall be paid for the actual time worked.

9-57 Swim Instruction Differential
(Effective February 22, 2013; Rule Revision Memo 3D)

A. The Manager of Parks and Recreation will allow eligible employees to receive a Swim Instruction Differential for group or private swim lessons conducted at City-owned recreation facilities. The Department of Parks and Recreation retains the right to revoke eligibility for the differential for any business-related reason, at any time.

B. In order to be eligible to receive the Swim Instruction Differential, an employee must:

1. Be classified as a Lifeguard;

2. Have current certifications for Water Safety Instructor (WSI), First Aid (adult/infant/child) and Cardiopulmonary Resuscitation for the Professional Rescuer (CPR/PR); and

3. Be assigned to conduct the swim lesson(s) by management.

C. Amount of Differential:

1. Employees will receive their current hourly rate of pay for time spent conducting swim lessons.

2. In addition, employees will receive the following swim lesson differential;

a. Fifty percent (50%) of the employee's current hourly rate of pay for time spent teaching a group swim lesson.

b. Seventy-five percent (75%) of the employee's current hourly rate of pay for time spent teaching a private swim lesson.

(Revised February 20, 2015; Rule Revision Memo 11D)

Section 9-60 Stipends and Other Payments
(Re-numbered December 21, 2012; Rule Revision Memo 66C)

9–61 Golf Lesson Stipend
(Effective March 12, 2007; Rule Revision Memo 16C:
Revised May 11, 2011; Rule Revision Memo 52C)

A. The Manager of Parks and Recreation may allow eligible employees to receive a Golf Lesson Stipend for lessons conducted at City-owned golf facilities, subject to the following conditions:

1. The employee must have passed either level one of the Professional Golf Association (PGA) Apprenticeship training or the National Education Program 1 of the Ladies Professional Golf Association (LPGA) apprenticeship program, and either be enrolled in the PGA or LPGA apprenticeship program or have a valid PGA or LPGA membership.

2. The Department of Parks and Recreation retains the right to revoke eligibility for the stipend for any business-related reason, at any time.

3. The employee has the responsibility for the following:

   a. Selling and booking the lesson;

   b. Collecting the fees; and

   c. Conducting the lesson.

4. All lessons must be entered into and tracked by the golf course's point of sale system, or other tracking system as specified by management.

5. All lessons must be conducted at a time that does not interfere with the employee's job duties. The employee is responsible for completing their assigned schedule each week, not including time spent teaching lessons.

6. Golf Lesson Stipends will be considered as compensation and included as reportable income.

B. Amount of Stipend:

1. Exempt employees:

   a. The only compensation the employee will receive for time spent teaching golf lessons is the Golf Lesson Stipend.

   b. The City shall retain sixteen percent (16%) of the fee charged.

   c. Eighty-four percent (84%) of the fee will be paid to the employee as a Golf Lesson Stipend.

2. Non-exempt employees:

a. Non-exempt employees will receive their normal hourly rate of pay for time spent conducting lessons in addition to the Golf Lesson Stipend.

b. The City shall retain forty percent (45%) of the fee charged.

c. Fifty-five percent (55%) of the fee will be paid to the employee as a Golf Lesson Stipend.

3. The City portion of the fee will include the cost of golf balls.

4. Stipends will be paid on collected revenue only.

9-62 Child Welfare Stipend
(Revised October 10, 2014; Rule Revision Memo 9D)

A. State law requires the Department of Human Services (DHS) to have staff available twenty-four hours a day to receive reports of abuse and neglect, conduct initial assessments of such reports that are deemed emergencies, and investigate those reports that are appropriate for child protective services. In order to meet this requirement, the Manager of Human Services (Manager) may schedule eligible employees to be available to respond to emergency calls at night, weekends, mandated furlough days and holidays. Employees so scheduled will be entitled to receive a Child Welfare Stipend as provided below. An employee who is scheduled to respond to emergency calls is expected to:

1. Be available by telephone;

2. Be in a non-impaired condition that allows the employee to safely perform job duty assignments; and

3. Respond to a call and perform work within time frames established by the DHS.

Employees who are scheduled to respond to emergency calls and fail to meet these expectations may be subject to disciplinary action, up to and including dismissal.

B. The Manager reserves the right to refuse to schedule an employee to respond to emergency calls. The employee's supervisor may allow the employee to use paid or unpaid leave in order to catch up on missed sleep, as appropriate.

C. To be eligible for the Child Welfare Stipend, the employee must:

1. Be exempt from overtime under Federal law and the Career Service Rules (employees who are eligible for overtime may receive standby pay as provided in the Career Service Rules); and

2. Be at least at the type and level of Social Case Worker Supervisor in order to be eligible to be assigned After-hours Administrator duties.

D. After-hours emergency response duties will be assigned and paid as follows:

1. <u>After-hours Administrator</u>.

a. Supervises the After-hours Call Taker and the After-hours Responder.

b. After-hours Administrator duties will be assigned a shift at a time.

i. After hours Administrator shifts on weekend days, paid City holidays, and mandated furlough days begin at 7:00 a.m. and end at 7:00 a.m. on the following day.

ii. After-hours Administrator shifts on work days begin at 4:30 p.m. and end at 7:00 a.m. on the following day.

c. i. Employees whose After-hours Administrator shift begins on a paid City holiday or mandated furlough day will receive a $50 Child Welfare Stipend for that shift.

ii. Employees whose After-hours Administrator shift begins on any other day will receive a $40 Child Welfare Stipend per shift.

2. <u>After-hours Call Taker</u>.

a. Answers after-hours hotline calls and determines an appropriate response after consulting with the After-hours Administrator.

b. After-hours Call Taker duties will be assigned a shift at a time.

i. After hours Call Taker shifts on weekend days begin at 7:00 a.m. on Saturday and run between 7:00 a.m. and 3:00 p.m.; 3:00 p.m. and 11:00 p.m.; 11:00 p.m. and 7:00 a.m.; and end at 7:00 a.m. on Monday.

ii. After-hours Call Taker shifts on paid City holidays and mandated furlough days begin at 7:00 a.m. on the holiday or furlough and run between 7:00 a.m. and 7:00 p.m; 7:00 p.m. and 7:00 a.m.; and end at 7:00 a.m. on the following day.

iii. After-hours Call Taker shifts on work days begin at 8:00 p.m. and end at 7:00 a.m. on the following day.

c. i. Employees whose After-hours Call Taker shift begins on a paid City holiday or mandated furlough day will receive a $150 Child Welfare Stipend for that shift.

ii. Employees whose After-hours Call Taker shift begins on any other day will receive a $130 Child Welfare Stipend per shift.

3. <u>After-hours Responder</u>.

a. Responds to emergency after-hours calls at the direction of the After-hours Administrator.

b. After-hours Responder duties will be assigned a shift at a time.

i. After-hours Call Responder shifts on weekend days, paid City holidays, and mandated furlough days begin at 7:00 a.m. on the weekend day, holiday, or furlough and run between 7:00 a.m. and 7:00 p.m; 7:00 p.m. and 7:00 a.m.; and end at 7:00 a.m. on the following day.

ii. After-hours Call Responder shifts on work days begin at 4:30 p.m. and end at 7:00 a.m. on the following day.

c. i. Employees whose After-hours Call Responder shift begins on a paid City holiday or mandated furlough day will receive a $50 Child Welfare Stipend for that shift. If the employee responds to one emergency call during that shift at the direction of the After-hours Call Administrator, the employee will be paid a $150 stipend. If the employee responds to two or more emergency calls during that shift at the direction of the After-hours Call Administrator, the employee will be paid a $195 stipend.

ii. Employees whose After-hours Call Responder shift begins on any other day will receive a $40 Child Welfare Stipend per shift. If the employee responds to one emergency call during that shift at the direction of the After-hours Call Administrator, the employee will be paid a $115 stipend. If the employee responds to two or more emergency calls during that shift at the direction of the After-hours Call Administrator, the employee will be paid a $160 stipend.

E. The City is required by Federal law to treat exempt employees like non-exempt employees during a week in which the exempt employee takes an unpaid furlough. If an exempt employee is assigned after-hours emergency response duties during a week in which a mandated furlough is scheduled to occur, the employee shall be required to work on the mandated furlough day, and take an unpaid furlough day during another week that year in which the employee has not been assigned after-hours emergency response duties. If an exempt employee does take a furlough day during a week in which the employee has been assigned after-hours emergency response duties, the employee will be paid for all time spent performing emergency response duties in addition to the stipend provided by this rule.

9-63 Bilingual Services Stipend
(Revised December 21, 2012; Rule Revision Memo 66C)

A. An appointing authority may pay an employee bilingual services stipend if the following conditions have been met:

1. The appointing authority has determined that the employee's position requires that the employee use bilingual skills thirty-five percent (35%) or more of the time;

2. The classification specification for the employee's classification does not require bilingual skills for all incumbents of that classification; and

3. The employee demonstrates a proficiency in the second language, according to procedures established by the OHR Executive Director.

B. The effective date of the bilingual services stipend shall be the beginning of the first work week following receipt of an appointing authority's request to determine bilingual proficiency by the OHR, or following the employee's demonstration of proficiency in a second language, whichever date is later.

C. Employees who are eligible for bilingual services stipend shall receive a stipend based on the level of proficiency demonstrated by that employee:

1. Fifty dollars ($50) per pay period for basic conversational skills;

2. Seventy five dollars ($75) per pay period for proficiency in the language in both speaking and writing or reading: and

3. One hundred dollars ($100) per pay period for expert proficiency in the language which includes translation skills.

D. Employees in part time positions shall have bilingual stipend pro-rated as follows, based on the amount of hours actually worked in a pay period:

	BASIC	**MID-LEVEL**	**EXPERT**
80 hours or more	$50.00	$75.00	$100.00
60-79 hours	$37.50	$56.25	$ 75.00
40-59 hours	$25.00	$37.50	$ 50.00
20-39 hours	$12.50	$18.75	$ 25.00
Less than 20 hours	$ 5.00	$10.00	$ 15.00

E. When an employee changes positions and the language skills are not a requirement of the new position, the bilingual services stipend shall cease.

9-64 Forensic Pathology Fellow Program Director Stipend
(Revised December 21, 2012; Rule Revision Memo 67C)

A. The City and County of Denver's Office of the Medical Examiner operates a teaching fellowship program in which recent graduates of an accredited pathology program receive training in forensic pathology.

B. The Chief Medical Examiner has the authority to assume the responsibility of directing this program or to assign this responsibility to any Forensic Pathologist who meets the criteria for program director established by the University of Colorado and the Accreditation Council for Graduate Medical Education (ACGME).

C. As compensation for the additional duties required to direct this program, the Chief Medical Examiner may pay the Forensic Pathologist who is assigned and performing all of the duties of directing the Forensic Pathology Fellow Program additional pay equal to six and nine-tenths percent (6.9%) above his or her regular base pay.

D. The duties of the Forensic Pathology Fellow Program Director include:

1. Ensuring that the Fellowship Program complies with University of Colorado and ACGME accreditation requirements;

2. Recruiting Forensic Pathology Fellows for the program;

3. Maintaining the program's educational curriculum; and

4. Mentoring and supervising the Forensic Pathologist Fellow(s).

9-65 Work Assignment Outside of Job Classification
(Revised May 20, 2008; Rule Revision Memo 28C)

A. An appointing authority may temporarily assign the duties of a vacant position in a higher level classification to an employee in a lower level classification for a period of one year in accordance with the criteria established in this rule. Assignments for periods longer than one year require the approval of the OHR Executive Director.

B. 1. Employees are eligible for additional pay for such assignments when they have been assigned all of the duties and responsibilities of the vacant position in the higher level classification;

2. Additional pay for work outside of an employee's job classification shall start at the beginning of the work week following the fifteenth day of the temporary assignment, and continue for the duration of the assignment.

C. The employee shall receive additional pay equal to six and nine-tenths percent (6.9%) above his or her regular base pay, unless the employee is receiving equipment differential.

D. 1. The employee's job classification will not change as a result of a temporary assignment of higher level job duties and responsibilities. Employees receiving additional pay for working outside of their assigned classification shall not be eligible for re-allocation to the higher level classification.

2. If an employee receives a merit increase during the temporary assignment, the pay for the work assignment outside of job classification shall be re-calculated based on the employee's base pay including the merit increase. The re-calculated pay shall be effective on the effective date of the merit increase (Revised January 1, 2011; Rule Revision Memo 51C).

E. Upon completion of the temporary assignment, the employee's pay shall return to the employee's base pay prior to the temporary assignment, including any merit increase awarded during the temporary assignment.

F. Pay for work outside of an employee's job classification does not impact subsequent pay for promotion, demotion or any other personnel action.

9-66 Recruitment premium (Revised May 20, 2008; Rule Revision Memo 28C)

A department or agency may pay a one-time premium of up to $4,000 to attract a highly qualified external candidate whose skills, knowledge and/or abilities are deemed essential to the mission of the City. The request must be approved by the Budget and Management office prior to extending the bonus offer. The candidate will be eligible to receive this bonus upon the completion of employment probation.

9-67 Relocation premium (Revised May 20, 2008; Rule Revision Memo 28C)

A department or agency may pay relocation costs of up to $7,500 to attract a highly qualified external candidate whose skills, knowledge and/or abilities are deemed essential to the mission of the City. The individual receiving the relocation assistance must stay employed by the city for two (2) years. If the individual voluntarily terminates employment prior to serving two (2) years, he or she must repay part of the relocation pay. The basis for repayment shall be pro-rated for each month of service. The Budget and Management office must approve relocation pay and the employee receiving such pay shall sign a form acknowledging their acceptance of the terms of this rule.

Section 9-70 Hours of Work

9-71 Standard Work Week

A. The five (5) day forty (40) hour week shall be the standard work week for employees of the Career Service.

B. Standard work hours shall be eight (8) hours per day, excluding the meal period. In certain cases, because of the character of the work, it may be necessary for an employee to be required to eat a meal while working. When the meal period is spent predominantly for the benefit of the City, the employee shall be paid for the entire meal period (Effective October 10, 2008; Rule Revision Memo 32C).

C. Appointing authorities shall be responsible for establishing daily work schedules.

D. The work week shall begin on Sunday and end on Saturday unless otherwise designated by the appointing authority.

9-72 Posting of Changes in Work Schedules
(Re-numbered October 10, 2008; Rule Revision Memo 32C)

A. If work schedules are changed, appointing authorities shall post such schedules so that affected employees are provided with adequate notice of the change in advance of the work week in which it is supposed to occur. However, appointing authorities may require an employee to arrive early or stay beyond his or her regular work schedule or return to work to provide essential City services without such notice (Revised September 21, 2010; Rule Revision Memo 49C; and June 17, 2011; Rule Revision Memo 55C).

B. Employees are permitted to request a temporary change in daily work schedules in order to accommodate personal needs. Appointing authorities have the discretion to grant this request based on the business needs of the department or agency.

9-73 Interruption of Work and Pay during City-wide Emergency
(Effective June 8, 2007; Rule Revision Memo 20C: Re-numbered October 10, 2008; Rule Revision Memo 32C)

A. An employee who is excused from work for the day or any part of the day when the work program is interrupted (e.g., because of weather) shall be considered to have worked the number of hours included in his or her regular daily schedule. An on-call employee who is called to work and not assigned because of an interruption or change in the work program shall be considered to have worked two (2) hours on that day.

B. Work interruptions during a City-wide emergency declared by the Mayor:

In addition to pay for the interrupted work hours, employees who work during the hours of a City-wide emergency declared by the Mayor are eligible for compensation for working during hours attributed to the emergency condition as follows:

1. Non-exempt employees shall also receive pay for the actual time they work during the City-wide emergency. For purposes of determining if an employee is entitled to overtime, the work hours interrupted by the City-wide emergency shall be counted as time worked in addition to time actually worked and other amounts, such as paid holidays, periods of paid leave, or any discharge of compensatory time, as provided by the overtime provisions of this rule.

2. a. An employee exempt from overtime shall be paid at the straight time hourly rate for each hour worked that was related to the emergency. Interrupted work hours during a City-wide emergency count as time worked and exempt employees eligible for overtime in accordance with 9-93 Overtime Exceptions will be compensated for hours beyond forty (40).

b. City-wide emergency pay may be paid in either cash or compensatory time off, at the discretion of the appointing authority. Compensatory time may be taken at any time mutually convenient to the employee and the appointing authority. All accrued compensatory time shall be used by March 31st of each calendar year or paid in cash by the final pay period in April of that year (Revised January 1, 2010; Rule Revision Memo 42C).

3. Employees who were on other leave such as paid time off, vacation, compensatory time, sick, or unpaid leave must use that leave unless called back to work. When called back to work, unused leave hours are returned to the banks and work hours are counted (Revised January 1, 2010; Rule Revision Memo 42C).

4. Employees who telecommute must have prior written approval to telecommute from their appointing authority or designee. The written approval shall include the employee's assignment while telecommuting. An employee must demonstrate that he or she accomplished the assignment in accordance with the written approval.

Section 9-80 Special Work Schedules

A. Deviations from the standard workweek, eight (8) hour work-day or designation of special work schedules may be made so long as they are in accordance with the provisions of this section. The appointing authority must provide written notification to the OHR Executive Director of any change to the standard workweek or the designation of special work schedules for employees.

B. Establishment:

1. When the work program of a department or agency is such that the interests of the City as well as the efficiency of the organization can better be served by a special work schedule, the appointing authority may establish one for specified units, individual employees, or the entire agency.

2. Employees affected by the proposed schedule should be consulted concerning their preferences prior to the establishment of the special work schedule, and their wishes should be recognized wherever possible. The final determination shall be within the discretion of the appointing authority.

3. When an appointing authority determines that the special work schedule has not served the best interests of the City, the appointing authority may discontinue the special work schedule and shall provide written notification to the OHR Executive Director.

C. Ten hour schedule:

Under a ten hour schedule, employees are scheduled to work ten (10) hours per day, four (4) days per work week. Days off shall be scheduled consecutively wherever possible, provided, however, that one of the three (3) days off may be scheduled on any day during the work week in order to prevent staff shortages on any workday.

D. Nine/eighty schedule:

Under a nine/eighty schedule, employees are scheduled to work nine (9) hours per day, four (4) days per work week, and four (4) hours on one day of the work week. The start and end date of the work week must be changed so that the work week does not contain more than forty (40) hours of scheduled work. This is accomplished by having the work week begin in the middle of the day on which the four (4) hour shift is scheduled, and end in the middle of that day a week later. This day is the flex day, upon which the employee will work eight (8) hours every other week, and will have off the rest of the time. Days off shall be scheduled consecutively wherever possible, provided, however, that the flex day may be scheduled on any day during the work week in order to prevent staff shortages on any workday.

E. Alternate work schedules:

The appointing authority may establish an alternate work schedule when neither the standard work week nor any of the special work schedules set forth in this section permit the department or agency to provide necessary services.

F. Telecommuting:

1. Telecommuting is the practice of working at home or from a site other than a department or agency's central workplace. It is a work alternative which appointing authorities may offer to or require of employees.

2. Telecommuting is not an employee benefit but an alternative method of meeting the City's needs. Telecommuting is a privilege and an appointing authority has the right to refuse to make telecommuting available to an employee and to terminate a telecommuting arrangement at any time.

3. Employees may express a desire not to telecommute and appointing authorities should consider employees' wishes along with the needs of the City in making a final determination.

4. Permission to telecommute shall be conditioned on compliance with the telecommuting guidelines established by the OHR Executive Director (see Appendix).

Section 9-90 Overtime

9-91 Policy
(Revised June 17, 2011; Rule Revision Memo 55C)

A. In accordance with the FLSA, all work performed in excess of forty (40) hours per week by non-exempt employees shall be designated overtime work for the purposes of compensation, subject to the following exceptions:

1. Non-career employees working for seasonal recreational establishments that do not operate for more than seven months in any calendar year shall be exempt from overtime pay and shall be paid the straight time hourly rate for all hours worked in a work week, including all hours worked in excess of forty (40) hours per week.

2. Non-career employees whose rates of pay are set by the community rate schedule established by ordinance shall be paid overtime according to that schedule. If the community rate schedule makes no provisions for overtime, such employees shall be paid overtime in accordance with section 9-100.

B. If a paid holiday, a period of paid leave, or discharge of compensatory time occurs during a work week, such time shall be counted as time worked when determining whether an employee has worked overtime. Time spent taking courses outside of the normal work day shall not be counted as time worked, even if the employee receives paid training leave to take the courses, unless the City has required the employee to take the course.

C. Unpaid leave shall not count as time worked.

D. The hours worked as an election judge by an employee shall not be counted as time worked for the purposes of determining overtime eligibility. If an employee wishes to work as an election judge during a regularly scheduled shift, the employee must request leave from the appointing authority.

9-92 Criteria for Authorizing Overtime Work

A. Overtime work shall be authorized to provide essential City services when such services cannot otherwise be provided by regular or special work schedules. Except in cases of emergency, overtime work shall be authorized and assigned in advance by an employee's supervisor or other designated individual. Working unauthorized overtime may be grounds for discipline, up to and including dismissal.

B. When an employee has been assigned work outside of his or her normal work schedule, such overtime shall be subject to the same reporting requirements as regular work hours. Failure to report for such work may be cause for disciplinary action, up to and including dismissal.

9-93 Overtime Exceptions

Employees in overtime exempt classes as defined by the FLSA shall not receive overtime pay, except in the following situations:

A. Based on community practice, the OHR Executive Director may recommend an exception to the overtime exclusion for a designated classification or classifications to the Board for approval.

B. Career Service employees who work for the DHHA in exempt classifications in the Health Technical and Related Support, Health Professional, and Doctors occupational groups, when comparable classifications in the DHHA personnel system have been granted an exception to the overtime exclusion by the DHHA.

C. Upon the request of an appointing authority, the OHR Executive Director may grant an exception to overtime exclusion for a specified period of time when the employee will provide services for the City during declared emergency conditions. Such exception shall apply to a position or group of positions within a classification where the working conditions are distinctly different than working conditions of other positions in the same classification and shall apply to the hours attributed to the emergency condition.

D. Based on community practice, overtime shall be paid only under the circumstances outlined below to incumbents in the FLSA overtime exempt, first level supervisory classes approved by the Board:

1. Scheduled overtime occurring in a holiday week;

2. Overtime related to after-hour emergency response duties;

3. Publicly scheduled events requiring infrastructure support; and

4. Snow removal activities.

Section 9-100 Payment for Overtime
(Revised June 17, 2011; Rule Revision Memo 55C)

A. Non-exempt employees: Non-exempt employees who work overtime shall receive compensation at the rate of one and one-half (1 ½) times the regular rate of pay applicable to the position.

1. The regular rate of pay shall be computed as follows:

a. Multiply the hourly rate by the employee's actual hours of work in the work week to determine the weekly salary equivalent.

b. Total the weekly salary equivalent plus all payments for differentials, standby, and any other compensation required by FLSA to be included in the regular rate of pay for the work week, and divide by the number of hours the employee actually worked during that week.

2. Compensatory time:

a. Overtime compensation may be paid either in cash or in compensatory time off, at the discretion of the appointing authority. The appointing authority shall inform employees of the department's or agency's overtime compensation policy. Compensatory time off shall be accrued at the rate of one and one-half (1-1/2) times the overtime hours worked. An employee who has accumulated eighty (80) hours of compensatory time and is required to work overtime shall only be paid for such overtime in cash. All accrued compensatory time shall be used by March 31st or paid out in cash by the final pay period of April of that year.

b. Payment for accrued compensatory time on separation: An eligible non-exempt employee who has accrued compensatory time in accordance with this section shall receive payment for the unused portion of such accrual when the employee is separated from the Career Service. The rate of compensation for such payment shall be the larger of the following:

1. The average regular rate received by such employee during the last three years of the employee's employment; or

2. The final regular rate received by such employee.

B. Exempt employees eligible to receive overtime: The overtime rate shall be:

1. a. At the rate established for non-exempt employees by this rule if eligible under paragraph 9-93 A.

b. At the rate established by the DHHA for comparable positions if eligible under paragraph 9-93 B.

c. At the straight time hourly rate of pay applicable to that position, if eligible under paragraph 9-93 C, where the hourly rate is computed by dividing the annual salary by 52 and then dividing by the regular hours of the position; and

d. At the rate of one and one-half (1 ½) times the hourly rate of pay applicable to that position if eligible under paragraph 9-93 D, where the hourly rate is computed by dividing the annual salary by 52 and then dividing by the regular hours of the position.

2. How paid: Overtime compensation for eligible exempt employees shall be paid in cash. Exempt employees eligible for overtime shall not accrue or use compensatory time in lieu of pay, except for Holiday Compensatory Time as defined in Rule 10 **PAID LEAVE**.

Section 9-110 Record Keeping
(Revised April 1, 2008; Rule Revision Memo 26C)

A. Responsibility for maintaining time and compensation records may be vested in the Department of Finance, the OHR, or the agencies, as may be agreed among them from time to time.

B. The content of these records shall be governed by guidelines established by the OHR (see Appendix).

C. These records shall be retained for a minimum of six (6) calendar years, in a location where they would be available for inspection within seventy-two (72) hours from the date when requested by the Wages and Hours Administrator or designees.

APPENDIX 9.A.

TELECOMMUTING GUIDELINES
(REFERRED TO IN RULE 9-80 F)

A. The position for which telecommuting is proposed shall be suitable for such an assignment, with the ability to provide high quality service to the public while telecommuting being the most significant determining factor.

B. There shall not be any disruption of service or decline in the quality of services provided by the department or agency to the public as a result of telecommuting.

C. No employee may telecommute unless their most recent performance rating is "Successful" or higher.

D. If an employee subsequently receives a performance rating of “Failing” or "Below expectations", the employee's authorization to telecommute shall cease. (Revised January 1, 2010; Rule Revision Memo 43C)

E. The employee shall agree not to engage in employment activities other than for the agency or department during telecommuting hours.

F. The employee must designate a primary workspace at home that is maintained in safe condition, free from hazards. As an extension of the City's work site, the same insurance and workers' compensation coverage applies.

G. When the employee uses his or her own equipment, the employee is responsible for maintenance and repair of that equipment.

H. The employee will take all necessary precautions to secure department or agency information and equipment in his or her home and to prevent unauthorized access to any department or agency system or information.

I. Employees must receive prior written approval to telecommute from their appointing authority.

J. An employee’s status, benefits, compensation, and work responsibilities shall not change due to telecommuting.

K. Representatives from the City's Office of Technology Services, the OHR, and Workers' Compensation section, a designated City supervisor or the individual appointed by the employee's appointing authority for such purpose may inspect an employee's home for a business purpose related to this program upon giving reasonable notice to the employee.

M. The employee must at all times be accessible to the workplace via cellular phone, e-mail, or other means of direct communication and be able to report to work when notified or to respond immediately to communications from other staff, supervisors, managers or clients.

N. An employee who is granted telecommuting privileges must demonstrate that his or her productivity has been equal to or greater than his or her productivity before telecommuting was authorized.

O. A telecommuting employee's home address and telephone number shall remain confidential and will not be released by the agency or department.

P. The amount of time the employee is expected to work per day or pay period will not change as a result of telecommuting.

Q. Training will be available from the OHR for all employees, supervisors and managers interested in telecommuting.

R. Any abuse of the telecommuting privileges will be investigated and may result in corrective action, up to and including dismissal.

S. Equipment provided by the City to the employee shall be immediately returned when telecommuting is stopped or the employee separates from employment with the City.

T. Employees may not grieve or appeal a decision to allow or not allow telecommuting unless there is alleged discrimination.

APPENDIX 9.B.
GUIDELINES REGARDING TIME AND COMPENSATION RECORDS
(REFERRED TO IN RULE 9-110)

The following information shall be kept on time and compensation records for all employees, to the extent applicable:

A. Name in full (same as shown on social security card);

B. Identification number;

C. Home address, including the zip code;

D. Date of birth, if under 19;

E. Sex;

F. Classification;

G. Time of day and day of the week on which the employees work week begins. If the employee is part of a work force all of whose workers have a work week beginning at the same time on the same day of the work week, a single notation of the time of the day and beginning day of the work week for the whole work force of the agency or unit will suffice. If, however, any employees or group of employees has a work week beginning or ending at a different time, a separate notation shall then be kept for that employee or group of employees;

H. Hourly rate of pay for part-time, on-call, and non-exempt employees;

I. Payroll period (i.e. bi-weekly);

J. Amount and nature of each payment, such as tool and mileage allowances, excluded from the overtime rate of pay for non-exempt employees;

K. Hours worked each work day and total hours worked each work week (for purposes of this clause, a "work day" shall be any consecutive 24 hours);

L. Total daily or weekly straight-time earnings (including salaries, differentials, and standby);

M. Total of daily and weekly-overtime payments;

N. Total additions to or deductions from wages paid during each pay period; additionally, a record of the dates, amounts, and nature of the items which make up the total additions and deductions shall be maintained in individual employee accounts;

O. Total wages paid each pay period;

P. Date of payment and the pay period covered by the payment; and

Q. Basis on which wages are paid in sufficient detail to permit calculation for each pay period of the employee’s total remuneration for employment, including fringe benefits.

RULE 10
PAID LEAVE
(Effective January 1, 2010; Rule Revision Memo 42C)

Purpose statement:

The purpose of this rule is to provide guidelines and policies for administering the City's paid leave programs.

Section 10-10 Definitions

A. Leave: Any absence during regularly scheduled work hours. The following types of paid leave are officially established and shall be in effect unless otherwise provided by ordinance:

1. Paid time off ("PTO") including bereavement;

2. Sick and vacation including bereavement;

3. Holiday;

4. Military;

5. Election;

6. Court;

7. Investigatory;

8. Training;

9. Compensatory;

10. Administrative;

11. Occasional time off.

(Revised September 21, 2010; Rule Revision Memo 49C)

B. Immediate family: Husband, wife, son, daughter, mother, father, grandmother, grandfather, grandchildren, brother, sister, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, domestic partner, and the mother, father, son, daughter, brother, or sister of the domestic partner, as well as minor children for whom the employee or the employee's domestic partner provide day-to-day care and financial support.

Section 10-15 Designees

Appointing authorities, including the Office of Human Resources ("OHR") Executive Director, may delegate any authority given to them under this rule to a subordinate employee.

Section 10-20 Paid Time Off

SUMMARY OF THE PAID TIME OFF ORDINANCE
1. Eligibility
Covered employees: A. Career Service employees hired or re-hired after December 31, 2009. B. Career Service employees who elected to convert from receiving sick and vacation leave to receiving PTO. Excluded employees: A. Part-time employees who are regularly scheduled to work less than twenty (20) hours per week; B. Persons occupying or employed in on-call, temporary, or seasonal positions, or positions in which the incumbent is paid according to the community rate schedule; and C. Employees who hold positions in classifications in the Undersheriff pay schedules. **Source: D.R.M.C. §18-123** **THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.**

SUMMARY OF THE PAID TIME OFF ORDINANCE - continued

2. Conversion to PTO

A. Employees who were receiving paid sick and vacation leave on December 31, 2009 and who otherwise continue to remain eligible may elect to receive PTO benefits instead of paid sick and vacation leave. In order to receive PTO benefits, such employees must provide written notice of this election to the Department of Finance on or before February 1, 2010.

B. Employees who elect to participate in the PTO plan must convert their existing sick and vacation leave banks into a special leave bank. The employee shall convert one hundred (100) percent of his or her existing vacation leave plus a maximum of fifty (50) percent of his or her existing sick leave into PTO, which shall be deposited in a special leave bank. The amount of PTO in the special leave bank cannot exceed four hundred (400) hours. Any excess sick leave shall be forfeited. The amount of existing sick and vacation leave to be converted shall be the amount of leave earned as of January 31, 2010.

C. The PTO balance in an employee's special leave bank shall not be replenished. PTO subsequently earned by an employee shall be deposited in his or her PTO bank. PTO used by an employee shall be debited from the employee's PTO bank first unless that bank has been exhausted or if the employee requests that the special leave bank be used first.

Source: D.R.M.C. §18-124

3. Earning PTO

	Years of consecutive service				
	0 < 0.5	**0.5 < 5**	**5 < 10**	**10 < 15**	**≥ 15**
Paid time off earned per month	10	12	15	18	19

A proportionate amount shall be allowed eligible employees working part-time.

Source: D.R.M.C. §18-125

4. Limits on PTO accumulation

PTO may not be accumulated in excess of four hundred (400) hours.

Source: D.R.M.C. §18-127 (a)

THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.

10-21 Partial Leave Accruals

Full-time employees, eligible to earn PTO:

A. Who begin employment with the City after the first day of a month; or

B. Who separate from employment with the City before the last day of a month

Shall earn PTO in that particular month according to the following pro-ration schedule:

Hrs. worked (including pd. lv) in the month	**Years of service**				
	≤ 0.5	**0.5 < 5**	**5 < 10**	**10 < 15**	**≥15**
0-39	0	0	0	0	0
40-79	2.5	3	3.75	4.5	4.75
80-119	5	6	7.5	9	9.5
120-139	7.5	9	11.25	13.5	14.25
>140	10	12	15	18	19

PTO hours earned

10-22 Situations Where Approval of PTO Use is not Required
(Revised June 11, 2012; Rule Revision Memo 63C)

A. An employee may use PTO without requesting the approval of the employee's appointing authority when the employee is incapacitated by sickness or injury; for necessary care and attendance during sickness of a member of the employee's immediate family, and for qualifying conditions under the Family and Medical Leave Act ("FMLA"). Such use shall be subject to reporting and investigation requirements set forth in this Rule 10.

B. Absences from work because of authorized medical examinations or treatment related to an occupational injury or occupational disease arising out of and within the course and scope of employment with the City for which the City has admitted liability or has agreed to permit medical treatment while investigating the claim shall be treated as time worked. The employee shall make a reasonable effort to schedule the examination or treatment so as not to unduly disrupt the operations of the department or agency.

10-23 All Other PTO Uses

A. All other uses of PTO require the approval of the employee's appointing authority.

B. Appointing authorities shall approve such requests to use PTO on the basis of the work requirements of the agency after conferring with employees and recognizing their wishes where possible. Preference in the scheduling of pre-approved PTO shall be given to employees in order of their total length of continuous employment in the Career Service; provided, however, that an employee who has been re-instated or re-employed following a lay-off shall be given credit for the period of continuous employment in the Career Service prior to the lay-off.

C. Exceeding the PTO Accumulation Limit:

An appointing authority may not defer an employee's use of PTO to the extent that the employee will lose earned PTO. If the appointing authority is unable to allow an employee who has accumulated the maximum hours of PTO to use any of those hours because of workload, the appointing authority shall submit and the OHR Executive Director shall approve an emergency request to exceed the maximum amount. The employee must use the excess over four hundred (400) hours in the employee's PTO bank within one year of the approval date.

SUMMARY OF THE PAID TIME OFF ORDINANCE -continued
5. Bereavement leave
Employees who receive PTO benefits shall be entitled to use up to forty (40) hours of paid bereavement leave because of the death of a member of the employee's immediate family. This forty (40) hours of bereavement leave shall not count against the employee's PTO bank. **Source: D.R.M.C. §18-128** **THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES**

10-24 Bereavement Leave

An appointing authority may, in addition to the forty (40) hours of bereavement leave permitted by ordinance, grant additional PTO, or may allow an employee receiving PTO to use other paid or unpaid leave because of unusual circumstances connected with the death of a member of the employee's immediate family.

SUMMARY OF THE PAID TIME OFF ORDINANCE -continued
6. Effect of separation on PTO balance
Upon separation from the City, an employee shall be paid at his or her regular rate of pay for the unused portion of his or her accumulated PTO. **Source: D.R.M.C. §18-127 (b)** **THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES**

Section 10-30 Sick and Vacation Leave

SUMMARY OF SICK AND VACATION LEAVE ORDINANCES
1. Eligibility
Career Service employees who were receiving paid sick and vacation leave on December 31, 2009; who remain continuously employed by the City; and who have not voluntarily elected to receive PTO benefits, shall be entitled to continue to receive paid sick and vacation leave so long as the employee does not become: A. A part-time employee who is regularly scheduled to work less than twenty (20) hours per week; B. A person occupying or employed in on-call, temporary, or seasonal position, or position in which the incumbent is paid according to the community rate schedule; and C. An employee who holds a position in a classification in the Undersheriff pay schedules. **Source: D.R.M.C. §18-131**

2. Earning vacation and sick leave				
Years of consecutive service				
	0 < 5	**5 < 10**	**10 < 15**	**≥15**
Vacation hrs. earned per month	8	10	12	14
Sick hours earned per month	8	8	8	8

A proportionate amount shall be allowed eligible employees working part-time.

Source: D.R.M.C. §18-132

THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.

10-31 Partial Leave Accruals

Full-time employees, eligible to earn vacation and sick leave:

A. Who begin employment with the City after the first day of a month; or

B. Who separate from employment with the City before the last day of a month.

Shall earn vacation and sick leave in that particular month according to the following pro-ration schedule:

Hrs. worked (including pd. lv) in the month earned	**Vacation hours earned Years of service**				**Sick hrs.**
	0 < 5	**5 < 10**	**10 < 15**	**>15**	**N/A**
0-39	0	0	0	0	0
40-79	2	2.5	3	3.5	2
80-119	4	5	6	7	4
120-139	6	7.5	9	10.5	6
≥140	8	10	12	14	8

SUMMARY OF SICK AND VACATION LEAVE ORDINANCES -continued
3. Limits on sick leave accumulation
Sick leave may be accumulated to a limit of nine hundred sixty (960) working hours. When the accumulation exceeds eight hundred eighty (880) working hours, an employee may request that accumulated sick leave in excess of the eight hundred eighty (880) working hours be converted to vacation leave. Such conversions are in addition to the monthly amount of vacation leave allowed by ordinance. Employees may not convert sick leave to vacation leave if such a conversion would result in the employee's accumulated vacation leave exceeding the limits allowed by the Career Service Rules. **Source: D.R.M.C. §18-132 (a)(2)** **THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.**

10-32 Limits on Vacation Leave Accumulation

Employees with up to ten (10) years of service may accumulate up to two hundred eighty-eight (288) hours of vacation leave. Employees with ten (10) or more years of service may accumulate up to three hundred thirty-six (336) hours of vacation leave.

10-33 Using Sick Leave
(Revised June 11, 2012; Rule Revision Memo 63C)

A. Sick leave may be used when an employee is incapacitated by sickness or injury; for medical examinations, or treatment; for necessary care and attendance during sickness, or for death, of a member of the employee's immediate family, for qualifying conditions under the FMLA and as otherwise provided in these rules.

B. Absences from work because of authorized medical examinations or treatment related to an occupational injury or occupational disease arising out of and within the course and scope of employment with the City for which the City has admitted liability or has agreed to permit medical treatment while investigating the claim shall be treated as time worked. The employee shall make a reasonable effort to schedule the examination or treatment so as not to unduly disrupt the operations of the department or agency.

SUMMARY OF SICK AND VACATION LEAVE ORDINANCES -continued
4. Granting vacation leave
Vacation leave shall be taken at a time convenient to the appointing authority, provided that, every eligible employee shall be granted vacation leave during each twelve (12) month period of employment except where a deferment, not to exceed an additional twelve (12) months, is required for the good of the service. **Source: D.R.M.C. §18-132 (b)(2)** **THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.**

10-34 Granting Vacation Leave

A. Appointing authorities shall grant leave on the basis of the work requirements of the agency after conferring with employees and recognizing their wishes where possible. Preference in the scheduling of vacation time shall be given to employees in order of their total length of continuous employment in the Career Service; provided, however, that an employee who has been re-instated or re-employed following a lay-off shall be given credit for the period of continuous employment in the Career Service prior to the lay-off.

B. Exceeding the Vacation Leave Accumulation Limit:

An appointing authority may not defer an employee's use of vacation leave to the extent that the employee will lose earned vacation leave. If the appointing authority is unable to allow an employee who has accumulated the maximum hours of vacation leave to use any of it because of workload, the OHR Executive Director shall approve an emergency request by the appointing authority to exceed the maximum amount. The employee must use the excess over two hundred-eighty-eight (288) hours or three hundred thirty-six (336) hours, whichever applies, within one year of the approval date.

10-35 Bereavement Leave

Employees receiving sick leave shall be entitled to use up to forty-eight (48) hours of sick leave because of the death of a member of an employee's immediate family. An appointing authority may grant additional sick leave, or may allow an employee to use other paid or unpaid leave because of unusual circumstances.

SUMMARY OF SICK AND VACATION LEAVE ORDINANCES -continued

5. Effect of separation on sick and vacation leave balances

A. Sick leave

The following table applies to the pay-out of sick leave upon separation for any reason other than death or retirement:

Full years Of service		**Payout formula**
<5	No pay out	
5	Sick leave balance minus	(5 X 40 hrs.) or 200 hrs.
6	Sick leave balance minus	(6 X 40 hrs.) or 240 hrs.
7	Sick leave balance minus	(7 X 40 hrs.) or 280 hrs.
8	Sick leave balance minus	(8 X 40hrs.) or 320 hrs.
9	Sick leave balance minus	(9 X 40hrs.) or 360 hrs.
≥10	Sick leave balance minus	(10 X 40hrs.) or 400 hrs.

Upon separation due to retirement or death, an employee shall be paid at his or her regular rate of pay for one-half (1/2) of all accumulated sick leave credits existing on the effective date of separation or death, or in accordance with the method described above, whichever is higher, but not to exceed five hundred sixty (560) working hours.

Source: D.R.M.C. §18-134 (a)

B. Vacation leave

Employees with more than six (6) months of service shall be paid at his or her regular rate of pay for the unused portion of his or her accumulated vacation leave upon separation from employment.

Source: D.R.M.C. §18-134 (b)

THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.

Section 10-40 Administration of Paid Time Off and Sick and Vacation Ordinances

SUMMARY OF THE PAID TIME OFF AND SICK AND VACATION ORDINANCES
1. Effect of appointment to another City position:
When an employee is appointed to a Career Service position from any other City department or agency which is governed by the PTO ordinance or the sick and vacation ordinance, the employee's paid leave credits shall be transferred into the new place of City employment, provided that the entrance on duty in the new position immediately follows the separation from the former position. **Source: D.R.M.C. §18-126 & §18-133** **THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.**

10-41 Length of Service

In computing length of service for the purpose of determining an employee's PTO or vacation leave accrual rate, service in a position in any City department or agency other than the Classified Service of Police and Fire, the Denver Water Board, on-call positions, and contact positions, shall be counted as service, provided such service was performed continuously, immediately prior to the employee's employment or re-employment appointment to the Career Service.

10-42 Effect of Appointment to Another Career Service Position

When an employee is appointed to one Career Service position from another, the employee's accumulated PTO or sick and vacation leave shall be transferred to the new position.

10-43 Using Paid Leave
(Revised January 1, 2011; Rule Revision Memo 51C)

A. The amount of PTO or sick and vacation leave used shall be the amount of time an employee is scheduled to work when the leave is used.

B. PTO or sick and vacation leave shall not be used before it is posted to the employee's account.

10-44 Reporting and Investigation of Sick Leave

A. If an employee is absent for reasons that entitles the employee to use PTO without appointing authority approval, or sick leave, the employee or a member of the employee's household shall notify the employee's supervisor as soon as possible but at least within two (2) hours after the employee's usual reporting time. Appointing authorities may establish reporting procedures which differ from the standard for an entire agency, for specific units, or for individual employees in order to meet special program needs or work loads.

B. If an employee fails to notify the employee's supervisor or agency head, no PTO or sick leave shall be authorized, except in unusual circumstances, to be determined by the appointing authority.

C. Appointing authorities may investigate the alleged illness of an employee using PTO without appointing authority approval, or sick leave. False or fraudulent use of PTO or sick leave shall be cause for disciplinary action and may result in dismissal.

D. An employee who is using PTO or sick leave for more than three (3) days because of his or her own illness or that of a member of his or her immediate family may be required to furnish a statement signed by attending physician, or other proof of illness satisfactory to the appointing authority. An appointing authority may require this statement or proof for an absence chargeable to PTO without appointing authority approval, or sick leave, of any duration. If an appointing authority has reason to believe that the absence may be a qualifying event under the FMLA, the FMLA medical certification requirements shall apply.

10-45 Donated Leave

A. Donating Leave:

1. A Career Service employee may donate sick leave to another Career Service employee provided that the employee donating sick leave:

   a. Has been earning sick leave from the City continuously for the last five years; and

   b. Retains a sick leave balance of at least two hundred forty (240) hours after the donation.

2. A Career Service employee may donate PTO to another Career Service employee provided that the employee donating PTO retains a PTO balance of at least eighty (80) hours after the donation.

3. A Career Service employee may donate PTO or sick leave to a non-Career Service City employee provided that the recipient employee's department or agency and any applicable collective bargaining agreement allow employees to receive donations of leave from Career Service employees and provided that the applicable donor requirements have been met.

4. A Career Service employee may donate PTO or sick leave to, or receive donated sick leave from, an employee covered by the Undersheriff pay schedule to the extent permitted by the applicable collective bargaining agreement and provided that the donor and recipient requirements applicable to the non-Undersheriff employee have been met.

B. Recipient requirements:

1. Before an employee can receive donated leave, the employee (or the employee's representative) must provide notice to the Department of Finance that the employee anticipates a need for donated leave. Such notice shall estimate how much donated leave the employee expects to use in the current calendar year. Should the employee need more donated leave beyond the original estimate, the employee shall provide notice of this to the Department of Finance before the employee can receive additional donations.

2. In order to use donated leave, an employee must:

a. Have exhausted his or her accumulated compensatory time, sick leave and vacation leave or PTO, be absent from work and;

i. Be receiving disability leave, or temporary disability benefits under the provisions of the Workers' Compensation Act. In either of these situations, the employee may only use donated leave to make up the difference between the employee's base salary, and the total of other paid leave received and the temporary disability benefits the employee is receiving;

ii. Be receiving FMLA leave;

iii. Be receiving ADA leave (Revised December 20, 2012; Rule Revision Memo 65C); or

iv. Have received written notice of a pre-disqualification meeting. The employee may use donated leave until disqualification occurs or until the end of the period in which a decision on disqualification must be issued, whichever occurs first.

or

b. Have elected to substitute donated leave for unpaid parental involvement leave.

3. Donated leave can be used to cover absences that occur up to fifteen (15) calendar days before the leave was posted to a recipient's account so long as the other conditions of this section have been met.

4. A Career Service employee may receive donated leave from a non-Career Service City employee provided that the donor employee's department or agency allows employees to donate leave to Career Service employees and that the recipient requirements listed above have been met.

5. Employees who are eligible to receive donated leave may receive either donated PTO or donated sick leave regardless of whether the employee is enrolled in the PTO or sick and vacation leave plan.

C. Employees cannot use more than six hundred (600) hours of donated leave in a calendar year. Employees cannot receive donated leave to the extent that the donated leave will increase the employee's PTO or sick leave bank over the applicable maximum accumulation limit.

D. 1. The amount of donated leave to be credited to the recipient's account shall be computed as follows:

a. Multiply the number of hours of leave being donated by the hourly rate of pay of the donor employee;

b. Divide the result by the hourly rate of pay of the recipient; and

c. Round the result down to the closest full hour.

2. The computations made in paragraph D.1. shall be reported to the Department of Finance in accordance with procedures to be established by that office.

E. Recipients of donated leave are not entitled to receive pay upon separation for unused donated leave. Unused donated leave may not be donated to another employee or returned to the donor.

10-46 Effect of Separation on Leave Accrual
(Revised May 7, 2012; Rule Revision Memo 62C)

Employees shall not earn PTO or sick and vacation leave after the employee's last day as a City employee. Rule 14 **SEPARATION OTHER THAN DISMISSAL** and Rule 16 **DISCIPLINE AND DISMISSAL** describe this date for dismissals and other types of separations.

SUMMARY OF THE PAID TIME OFF AND SICK AND VACATION ORDINANCES - continued
2. Re-instated employees
Employees who were laid off while receiving paid sick and vacation leave benefits, and are re-instated under the Career Service Rules after December 31, 2009, will be enrolled in the PTO plan unless they elect in writing to continue to receive sick and vacation leave. Such election must be made within thirty (30) days of the effective date of the re-instatement. **Source: D.R.M.C. §18-123 (c)** **THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.**

10-47 Effect of Re-instatement and Re-employment on PTO and Sick Leave Balance

An employee who is re-instated after a lay-off shall have sick leave that he or she was not paid for at the time of separation restored as follows:

A. Employees who are enrolled in the PTO plan upon re-instatement may be able to convert sick leave that was lost at the time of lay-off to the special PTO bank. The amount that may be converted is based on the employee's accumulated sick leave at the time of separation. Up to one-half of this amount may be converted to the special PTO bank;

   1. So long as the amount converted does not exceed four hundred (400) hours; and

   2. After the sick leave the employee was paid for at the time of separation is deducted from this amount.

B. Employees who elect to receive sick and vacation leave after re-instatement shall have all sick leave that he or she was not paid for at the time of separation restored to the employee's sick leave bank.

C. An employee who is re-employed while his or her name is on a re-instatement list shall also be entitled to restoration of eligible sick leave under the terms of this subsection.

Section 10-50 Paid Holiday Leave
(Revised September 21, 2010; Rule Revision Memo 49C)

SUMMARY OF THE HOLIDAY ORDINANCE
1. Eligibility:
Excluded employees: A. Part-time employees who are regularly scheduled to work less than twenty (20) hours per week; B. Persons occupying or employed in on-call, temporary, or seasonal positions, or positions in which the incumbent is paid according to the community rate schedule; and C. Employees who hold positions in classifications in the Undersheriff pay schedules. **Source: D.R.M.C. §18-141**
2. Paid holidays
A. New Year's Day (January 1); B. Martin Luther King Day (third Monday in January); C. Washington's Birthday (third Monday in February); D. Cesar Chavez Day (last Monday in March); E. Memorial Day (last Monday in May); F. Independence Day (July 4); G. Labor Day (first Monday in September); H. Veterans' Day (November 11); I. Thanksgiving Day (fourth Thursday in November); J. Christmas Day (December 25); K. Personal holiday (one (1) personal holiday on a date agreed upon by the employee and the City to be used within the calendar year). **Source: D.R.M.C. §18-142** **THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.**

SUMMARY OF THE HOLIDAY ORDINANCE - continued
3. Observation of holiday
A. If any of the holidays listed above falls on a Sunday, then the following Monday shall be considered as the holiday. If any of the holidays listed above falls on a Saturday, then the preceding Friday shall be considered as the holiday. B. An employee may be required to work on a holiday in order to maintain essential services to the public. **Source: D.R.M.C. §18-143** **THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.**

10-51 Amount of Paid Holiday Leave Received

A. An eligible full-time employee shall receive eight (8) hours of paid holiday leave in a week in which a holiday occurs.

B. An eligible part-time employee regularly scheduled to work at least twenty (20) hours per week shall receive paid holiday leave as follows:

1. An employee who is regularly scheduled to work from twenty (20) to twenty-nine (29) hours per week shall receive four (4) hours of paid holiday leave.

2. An employee who is regularly scheduled to work from thirty (30) to thirty-nine (39) hours per week shall receive six (6) hours of paid holiday leave.

10-52 Observing Holidays

A. When a holiday falls on an employee's regular day off, it shall be observed as follows:

1. If the holiday falls on the first day off, it shall be observed on the preceding workday.

2. If the holiday falls on the second or third regular day off, it shall be observed on the next workday.

B. Appointing authorities who require an employee to work on an observed holiday may schedule the employee's paid holiday leave to be taken on another day during that holiday week as long as the employee is provided with adequate notice of this change in advance of the holiday week.

10-53 Eligibility for Paid Holiday Leave

A. Unless otherwise provided in Rule 11 **UNPAID AND EXTENDED LEAVE**, an eligible employee must be at work or on an authorized, paid leave on the scheduled workdays immediately preceding and immediately following the day on which the holiday is observed in order to receive paid holiday leave.

B. Religious or other holidays not observed by the City may be granted in accordance with the rules governing paid and unpaid leave.

10-54 Holiday Pay for Employees on Special Work Schedules

If the holiday falls on an employee's regularly scheduled work day and the work day is scheduled to be more than eight hours long, one of the following choices shall be selected by the employee, subject to approval by the appointing authority, to make up for the difference between the length of the work day missed and the eight hours of paid holiday leave allowed:

A. Hours may be deducted from the employee's administrative leave granted for exemplary performance, earned compensatory time, earned paid time off, or earned vacation leave;

B. The employee may work additional hours within the work week; or

C. The employee may take the hours as unpaid leave.

10-55 Compensation for Hours Worked in a Holiday Week

A. In a week in which a holiday occurs, full-time employees receive eight hours of holiday leave and are expected to work (or use leave) for the remaining thirty-two (32) hours. Part-time employees are expected to work (or use leave) during the time left after the employee's paid holiday leave is deducted from the hours they are normally expected to work in a week.

B. In addition, employees in classifications in exempt pay schedules shall receive straight time holiday compensatory time for the hours the employee actually works:

1. a. On the day the employee is scheduled to observe the holiday that week, or

b. On any of his or her scheduled days off in a week when a holiday occurs; and

The employee is not entitled, under Rule 9 **PAY ADMINISTRATION**, to receive overtime for working on the holiday or regularly scheduled day off in that holiday week.

2. In no event shall an employee receive more hours of holiday compensatory time than the employee would have been entitled to receive as paid holiday leave in a holiday week.

3. Employees shall only receive holiday compensatory time to the extent that the combination of hours worked and paid leave used (including paid holiday leave) during a holiday week exceeds forty (40) hours.

4. At the discretion of the appointing authority, straight time pay may be substituted for the holiday compensatory time. Holiday compensatory time may be taken at any time mutually convenient to the employee and the appointing authority. However, all accrued holiday compensatory time shall be used by March 31st of each calendar year or paid out in cash by the final pay period of April of that year.

Section 10-60 Other Paid Leave
(Re-numbered September 21, 2010; Rule Revision Memo 49C)

10-61 Paid Military Leave

A. All probationary and career status employees in the Career Service shall be eligible for up to fifteen (15) days, but not to exceed one hundred twenty (120) hours of paid military leave each calendar year for the time the employee is engaged in military training or service.

B. Notification Requirement: Employees engaged in military service or training requiring military leave shall provide notice in advance to their appointing authority, when possible. If the employee is unable to provide advance notice because of military necessity, the employee may give notice after starting duty.

C. Employees who continue in military service beyond the time for which paid military leave is allowed shall be placed on unpaid military leave, which is covered by Rule 11 **UNPAID AND EXTENDED LEAVE**.

10-62 Election Leave

Employees who are eligible to vote in an election are entitled to use up to two (2) hours of paid election leave for the purpose of voting during the time the polls are open, if an employee's work hours on the day of an election are such that there are less than three (3) hours between the time of opening and the time of closing of the polls during which the employee is not required to be on the job. Employees must request and receive approval for the leave prior to the election day. The appointing authority may specify the hours during which the employee may be absent, except that the employee shall be allowed to take the election leave at the beginning or end of the work shift if requested. (Source: C.R.S. §1-7-102).

10-63 Court Leave

A. An employee shall be granted paid court leave during time the employee is regularly scheduled to work, if the employee is:

1. Required to serve as a juror in a court of law;

2. Subpoenaed to testify in court of law or administrative proceeding concerning matters arising out of the course of his or her employment; or

3. Requested to serve as a witness in a court of law or administrative proceeding by his or her appointing authority or other authorized person to represent the City's interest in the legal proceedings.

B. Court leave is intended only to apply to those time periods when the employee is needed for court service and for reasonable travel time between court and work.

C. In order to receive court leave, an employee who is called for jury duty or to serve as a witness shall present the original summons or subpoena from the court to his or her supervisor and, at the conclusion of such duty, a signed statement from the Clerk of the Court or other evidence showing the actual time of attendance at court.

D. Fees received for jury service in a Federal, State, or Municipal court shall be in addition to, and irrespective of, an employee's regular salary.

10-64 Investigatory Leave

An appointing authority may place an employee on paid investigatory leave pending an investigation of a possible rule violation or failure to meet standards of performance as provided in Rule 16 **DISCIPLINE AND DISMISSAL**. Investigatory leave may be for no more than forty-five (45) calendar days, unless an extension of time has been approved by the OHR Executive Director.

10-65 Training Leave

A. Appointing authorities may grant paid training leave. Any training program for which such leave is granted must be job-related, which includes career development training that will prepare the employee for advancement with the City.

B. Appointing authorities may grant training leave for the purpose of attending institutes, seminars, or educational courses related to an employee's work for extended periods of time, at the appointing authority's discretion.

C. Appointing authorities shall allow trainees or interns to arrange their work schedule if they need to attend classes during normal working hours. Trainees or interns are not entitled to training leave while attending classes for the degree or certificate program they are required to complete during their trainee or intern probationary period.

D. Use of training leave by employees shall be arranged whenever possible during regularly scheduled work hours. Appointing authorities who require attendance at training activities during off-duty hours that are designed to increase the competencies, knowledge, skills and abilities of employees for the position which they presently occupy shall temporarily change the affected employee's standard work hours to include the training schedule. Employees who are required to attend such training during off-duty hours shall be granted paid training leave for the time spent in training.

E. For the purposes of this subsection, on-line training courses shall be treated the same as classroom training sessions.

F. Employees must present proof of attendance at any training for which they are authorized to receive training leave.

10-66 Compensatory Time

Compensatory time earned under the provisions of Rule 9 **PAY ADMINISTRATION** may be taken at any time mutually convenient to the employee and the appointing authority. However, all accrued compensatory time shall be used by March 31st of each calendar year or paid out in cash by the final pay period of April of that year.

10-67 Administrative Leave
(Revised January 1, 2011; Rule Revision Memo 51C)

A. Appointing authorities shall grant paid administrative leave for the following purposes:

1. To present grievances or appeals to an official of the City or to represent an employee presenting a grievance or an appeal. However, if flexibility exists as to the exact date and time, the leave shall be granted at the convenience of the appointing authority;

2. To participate in the Career Service Mediation Program. Administrative leave shall be granted to employees who participate in mediation either as a party or as the mediator and to an employee who attends mediator training; or

3. To represent another City employee at meetings with that employee's supervisor or manager, as set forth in Rule 15 **CODE OF CONDUCT**. The representative shall be allowed to take up to a maximum of four (4) hours of administrative leave per pay period so long as the use of such leave does not adversely affect the representative's department or agency and has been approved in advance.

B. Appointing authorities may grant paid administrative leave for the following purposes:

1. To compete for positions in the Career Service, including all related interviews and examinations;

2. To reward exemplary performance, such as Employee of the Quarter, Employee of the Year, or if the appointing authority wishes to recognize an employee's outstanding contribution to the agency. The appointing authority may grant, and an employee may use up to twenty (20) hours of administrative leave per calendar year for exemplary performance; or

3. When the appointing authority deems there is a business necessity, for a maximum of ten (10) calendar days per calendar year. The appointing authority may request an extension of up to twenty (20) calendar days from the OHR Executive Director. The OHR Executive Director may approve the request for an extension for good cause shown.

Granting or failing to grant administrative leave under this paragraph B shall not be subject to grievance or appeal.

10-68 Occasional Time Off

Exempt employees may be allowed paid occasional time off to attend to personal affairs, at the discretion of the appointing authority.

RULE 11
UNPAID AND EXTENDED LEAVE

(Revised January 1, 2010; Rule Revision Memo 42C)

Purpose statement:

The purpose of this rule is to provide guidelines and policies for administering time off through the City's leave programs.

Section 11-10 Leave Defined

(Revised June 11, 2012; Rule Revision Memo 63C)

Leave is defined as any absence during regularly scheduled work hours. The following types of unpaid and extended leave are officially established and shall be in effect unless otherwise provided by ordinance:

A. Military;

B. Disability leave and Workers' Compensation leave;

C. Leave without pay;

D. Unauthorized;

E. Parental involvement;

F. Family Medical Leave ("FMLA");

G. ADA leave (Revised December 20, 2012; Rule Revision Memo 65C).

Section 11-15 Designees

Appointing authorities, including the Office of Human Resources ("OHR") Executive Director, may delegate any authority given to them under this rule to a subordinate employee.

(Sections 11-20 through 11-30 reserved for future use)

Section 11-40 Disability Leave and Workers' Compensation Leave
(Revised June 11, 2012; Rule Revision Memo 63C)

11-41 Disability Leave

A. The City provides paid disability leave amounting to eighty percent (80%) of an employee's gross salary for up to ninety (90) consecutive calendar days from the date of injury for each occupational injury or occupational disease arising out of and within the course and scope of employment with the City (see Disability Leave Ordinance, attached as Appendix A).

B. An employee on disability leave shall not be permitted to use other available paid leave concurrently with the disability leave.

11- 42 Workers' Compensation Leave

A. An employee who remains unable to return to work after the disability leave allowed by the Denver Revised Municipal Code expires, and is receiving temporary disability benefits under the provisions of the Workers' Compensation Act of Colorado, as amended, Title 8, Articles 40-47, C.R.S. ("the Act"), will be permitted to use Workers' Compensation leave for absences from work resulting from the employee's occupational injury or occupational disease arising out of and within the course and scope of employment with the City, until it is determined that the employee is no longer eligible to receive temporary disability benefits pursuant to the Act.

B. Workers' Compensation leave is unpaid leave, except to the extent an employee elects to use available paid leave to make up the difference between eighty percent (80%) of the employee's gross salary and the temporary disability benefits the employee receives under the provisions of the Act.

11-43 Applicability of Family Medical Leave Act

A. The department or agency shall designate an employee's disability leave and/or Workers' Compensation leave as FMLA leave if the requirements of the applicable Career Service and Federal statutes and regulations are met.

B. If an employee's disability leave and/or Workers' Compensation leave is also designated as FMLA leave, the disability leave and/or Workers' Compensation leave shall run concurrently with the FMLA leave.

11-44 Maintenance of Benefits

An employee who is absent from work on disability leave or Workers' Compensation leave is:

A. Eligible to earn PTO, or sick and vacation leave as provided in section 11-80 of this Rule 11;

B. Eligible to receive paid holiday leave for holidays observed during the period of disability and/or Workers' Compensation leave as provided in Rule 10 **PAID LEAVE**;

C. Eligible to have the City continue paying its share of the employee's medical, dental, and life insurance premiums during the period of disability and/or Workers' Compensation leave, so long as the employee continues to pay his or her share of the insurance premiums.

11-45 Termination of Disability Leave or Workers' Compensation Leave Eligibility

A. Employees who are no longer eligible for temporary benefits under the Act are not eligible to continue receiving disability leave or Workers' Compensation leave.

B. If the employee's permanent restrictions prohibit the employee from returning to work full-time and/or full-duty after having reached Maximum Medical Improvement, the appointing authority shall initiate the interactive process as provided in Rule 5 **APPOINTMENTS AND STATUS**, within twenty (20) days of the expiration of the employee's eligibility for disability leave or Workers' Compensation leave, unless the employee is also on FMLA leave.

Section 11-50 Military Leave Without Pay

A. Employees who continue in military service beyond the initial one hundred twenty (120) hours for which paid military leave is allowed under Rule 10 **PAID LEAVE** shall be placed on unpaid military leave.

B. This rule is intended to comply with and be interpreted consistently with the Uniformed Services Employment and Reemployment Rights Act ("USERRA"). To the extent an issue is not addressed in this rule, or to the extent this rule is inconsistent with the USERRA, the USERRA and its corresponding regulations shall govern.

C. A career status or probationary employee who continues in military service beyond the time for which leave with pay is allowed shall be placed on military leave without pay. Such request for military leave without pay shall be made in advance, when possible, in writing or by oral notification. In the event of military necessity, if the employee is unable to provide advance notice, the employee may give notice after starting duty.

D. An employee in military leave without pay status may be eligible for a military pay differential. A military pay differential is for employees who are called to active military duty with written orders for services exceeding one hundred and seventy nine (179) days because of war or national emergency.

11-51 Granting Military Leave without Pay

Military leave without pay shall be subject to the following provisions:

A. Duration:

Military leave without pay shall be granted for the duration of active military service not to exceed five (5) years plus ninety (90) days from the date of discharge, provided that extensions shall be granted where the employee is required to serve a longer period of time involuntarily because of a war or national emergency.

B. Effect on paid time off, sick and vacation leave:

Paid time off ("PTO"), sick and vacation leave credits shall not be earned during military leave without pay that lasts over thirty (30) consecutive calendar days.

C. Effect on health & supplemental benefits:

During military leave without pay, the employer continues to subsidize an employee's group health care benefits for up to thirty (30) days. Employees absent on military leave without pay for thirty-one (31) days or longer, are eligible for health benefit coverage from the military. In addition, an employee on military leave without pay for thirty-one (31) days or longer can arrange to continue his or her individual and/or family coverage under the City's group health plan for the duration of military leave without pay. Employees opting for continuing coverage under the City's group health plan are responsible for paying 100% of the premium costs.

During military leave without pay, the employee can arrange to continue supplemental insurance coverage(s), such as dental, vision, short-term disability, and supplemental life insurance, for the duration of military leave without pay. Employees opting for continuing supplemental insurance coverage are responsible for paying 100% of the premium costs.

D. Break in service:

Military leave without pay shall not constitute a break in service.

E. Completion of probationary period:

An employee who returns after thirty (30) days or longer from military leave without pay who held employment probationary status at the time of military leave without pay shall have attained career status upon returning to the City.

11-52 Return from Military Leave without Pay
(Revised January 1, 2011; Rule Revision Memo 51C)

Employees returning from military leave without pay after an absence of ninety (90) days or less shall return to their former position. Employees returning after ninety-one (91) days or longer shall return to their former position or a job of equal status and pay, subject to the following provisions:

A. Due date for notice of return:

The notice time for return from military leave without pay that is provided to the appointing authority is dependent upon the amount of time served.

1. The employee must make notice for return from military leave without pay within ninety (90) days from the date of discharge from military service if the military duty lasted longer than one hundred eighty (180) days.

2. Employees who served thirty-one (31) to one hundred eighty (180) days shall give notice within fourteen (14) days of discharge.

3. Employees who serve less than thirty-one (31) days shall have three (3) days from discharge to give notice.

B. Certificate of satisfactory completion of military service:

A return from military leave without pay shall be conditional upon submission of a certificate of satisfactory completion of military service.

C. Effect of hospitalization for service connected medical condition:

In the event that the employee was hospitalized after discharge for medical conditions, which occurred during the military service, the employee's military leave without pay shall be extended not to exceed two (2) years. Application for return from military leave without pay must be made within ninety (90) days after discharge from hospitalization. Extensions may be granted due to circumstances beyond the employee's control.

D. Qualifications for return from military service:

The employee must be physically and mentally qualified and possess the necessary skills, knowledge and/or training to perform the essential functions with or without reasonable accommodations of the position to which the employee is returning. The City will provide appropriate training to returning employees.

E. Effect of service connected disability:

If the employee is not qualified to perform the essential functions with or without reasonable accommodations of the position left by reason of disability sustained during active military service, the appointing authority may transfer the employee to any other available position, the duties of which the employee is qualified to perform and which will provide like seniority, status and pay, or the nearest approximation thereof, as the employee achieved in the position from which he or she was granted military leave.

F. Effect of failure to give notice for return:

Failure to give notice for return from military leave without pay within the time limits stated shall be considered a resignation.

11-53 Military Pay Differential

A. Career Service employees who are called to active military duty in time of war or national emergency are eligible for a military pay differential as provided by the Denver Revised Municipal Code (See Appendix).

B. A written request for military pay differential shall be made by an eligible employee to the employee's department or agency as soon as possible after the employee's return to City employment using the application form prepared by the OHR. Requests for military pay differential may also be made while the employee is on military leave.

C. The employee shall provide copies of the following documents:

1. Written military orders for reporting and/or discharge;

2. Leave and earnings statements from the military;

3. All military pay vouchers, including vouchers for temporary duty and travel; and

4. Any other documentation deemed necessary to process the request by the OHR Executive Director, which may include documentation that the Department of Finance advises the OHR Executive Director is necessary.

D. Any overpayment of funds to the employee shall be reimbursed to the City in accordance with the City's Fiscal Accountability Rules.

(Sections 11-60 through 11-70 reserved for future use)

Section 11-80 Leave without Pay

11-81 Policy

Leave without pay may be granted to an employee for any good cause when it is in the interest of the City and the employee to do so. An appointing authority may grant an employee leave without pay for up to ninety (90) days. The agency or department head may approve ninety (90) day extensions. Any appointment made to the position vacated by an employee on leave without pay shall be conditional upon the return of the employee on leave. If an employee's leave without pay is also designated as FMLA leave, the leave without pay and FMLA leave shall run concurrently.

11-82 Granting Voluntary Leave Without Pay

Voluntary leave without pay shall be subject to the following provisions:

A. Return:

At the expiration of leave without pay, the employee shall return to the position he or she held prior to the leave (Revised May 7, 2012; Rule Revision Memo 62C).

B. Pay Increase and Fringe Benefits:

FIRST 30 DAYS WITHOUT PAY

The first thirty (30) consecutive calendar days of voluntary leave without pay in a calendar year, which is approved by the employee's supervisor, shall have no effect on the following:

1. City contributions to health, dental, and life insurance; or

2. PTO, sick and vacation leave credits, and holiday eligibility.

AFTER 30 DAYS BUT BEFORE 180 DAYS

After the first thirty (30) consecutive calendar days of voluntary leave without pay, City contributions to health, dental, and life insurance shall be discontinued, except for FMLA leave:

Only employees on FMLA leave may pay for the cost of contributing the health care benefits, dental benefits, and life insurance by:

1. Depositing monthly, the employee's share of the premium for such benefits with the payroll clerk for the unit from which the employee is on leave or;

2. By taking at least one day of paid leave from which the cost of contributions to health, dental, and life insurance shall be deducted.

Failure to contribute to the cost of the benefits or insurance shall result in the discontinuance of such benefits or insurance consistent with the FMLA.

Employees on leave without pay who are not on FMLA leave may only maintain benefit coverage by depositing the full monthly premium for such benefits with the payroll clerk for the unit from which the employee is on leave.

AFTER 180 DAYS

After the first one hundred and eighty (180) consecutive calendar days of voluntary leave without pay, City contributions to health, dental, and life insurance shall be discontinued.

Employees on leave without pay for more than one hundred and eighty (180) consecutive calendar days may maintain benefit coverage by depositing the full monthly premium for such benefits with the payroll clerk for the unit from which the employee is on leave.

C. No break in service: A leave without pay shall not constitute a break in service.

D. During probationary period: Leave without pay for more than one hundred and eighty (180) consecutive calendar days during the probationary period shall not be counted as part of that period but the employee to whom such leave has been granted shall be allowed to complete his or her probationary period upon return from leave.

E. Notification of the OHR: The OHR shall be advised, in writing, of leave without pay granted for fifteen (15) consecutive calendar days or more.

11-83 Budget Required Furlough

If the Mayor of the City and County of Denver decides to furlough employees within the Career Service due to budgetary reasons, the following Career Service Rule applies:

A. This Rule is intended to comply with the Fair Labor Standards Act regulation 29 C.F.R. § 541.710, which permits furloughs for budgetary reasons without affecting the exemption status of an overtime exempt employee except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

B. Furloughs of overtime exempt employees may be taken in work day or workweek increments. During the workweek in which an overtime exempt employee takes one or more furlough days, the furlough hours taken and the hours worked plus any leave taken by the exempt employee should not total more than forty (40) hours. A work day is eight (8) hours for the purposes of this rule.

C. Furloughs of non-exempt employees need not be taken in work day or work week increments but shall be debited in no less than two (2) hour increments.

D. The Mayor may exempt certain employees of the Career Service from a mandatory furlough in order to maintain essential City services or for other necessary business reasons.

E. At the expiration of the furlough, the employee shall return to the position held prior to the furlough.

F. During the period of time in which the Mayor has declared mandatory furloughs, employees, upon the agreement and prior approval of their appointing authority, may take additional voluntary furlough days, up to a maximum of forty-five (45) voluntary furlough days. Employees are not required to take voluntary furlough days.

G. Pay increases and employees benefits:
(Revised January 1, 2011; Rule Revision Memo 51C)

A mandatory furlough or voluntary furlough shall have no effect on the following:

1. City contributions to health, dental and life insurance during the furlough period;

2. PTO, sick and vacation leave credits accrued during the furlough period; or

3. Holiday eligibility.

H. Mandatory furlough or voluntary furlough shall not constitute a break in service (Revised May 7, 2012; Rule Revision Memo 62C).

I. During the period of time in which there are mandatory furloughs, the first forty-five (45) days of unpaid FMLA or ADA Interactive Process Leave shall be treated as voluntary furlough days.

J. Nothing herein precludes the mayor from designating specific furlough days or otherwise determining how to implement mandatory furloughs.

Section 11-90 Unauthorized Absence for Non-exempt Employees

A. Non-exempt employees: A non-exempt employee who is absent from duty without approval shall receive no pay for the duration of the absence. Such denial of pay shall not affect the right of the City or any of its agencies to invoke any form of disciplinary action which it deems appropriate, up to and including dismissal.

B. Exempt employees: Subject to the exceptions provided below, an employee need not be paid for any work week in which he or she performs no work.

1. The pay of exempt employees shall be reduced, on an hourly basis, for absences of less than a day when the absence is due to sickness or personal reasons; and

a. The employee did not request leave; or

b. A request for leave was denied; or

c. The employee has no available leave; or

d. The employee requested, and was granted, leave without pay.

2. Exempt employees may be allowed occasional time off with pay to attend to personal affairs, at the discretion of the appointing authority.

(Sections 11-100 through 11-120 reserved for future use)

Section 11-130 Parental Involvement Leave

It is the policy of the Career Service Board to provide leave for academic activities as required under the Parental Involvement in K-12 Education Act (C.R.S. §8-13.3-101 et seq.).

A. Definitions

1. Academic activity: Means:

a. A parent-teacher conference; or

b. A meeting related to any of the following topics;

i. Special education services;

ii. Response to intervention;

iii. Dropout prevention;

iv. Attendance;

v. Truancy; or

vi. Disciplinary issues.

School activities not included on the list above, including, but not limited to athletic or artistic events, are not considered to be academic activities for the purposes of this rule.

2. Academic year: Means the period, not to exceed twelve (12) consecutive months, allotted by a school for the completion of one grade level of study.

3. Eligible employee: Includes all Career Service employees.

4. Eligible employee's child: Means a child who is enrolled in a public school, private school, or in a non-public home-based educational program, in any grade between kindergarten and twelfth grade, for whom the eligible employee is parent, legal guardian, or is acting in the place of a parent.

B. Amount of leave allowed: Eligible employees are entitled to use parental involvement leave in an academic year to attend academic activities for or with the eligible employee's child as follows:

1. Full-time eligible employees are entitled to use eighteen (18) hours of parental involvement leave in an academic year.

2. Part-time eligible employees are entitled to use a percentage of the eighteen (18) hours of parental involvement leave that corresponds to the percentage of a forty (40) hour work week that they are regularly scheduled to work.

C. Notification requirements:

1. An employee shall provide the department or agency with notice of the need for leave at least seven (7) calendar days in advance of the academic activity. Such notice shall include written verification from the school or school district of the academic activity.

2. In the case of an emergency where the employee is not aware of the need for leave seven (7) calendar days in advance, the employee shall provide the department or agency with notice of the leave as soon as possible after becoming aware of the academic activity. Written verification shall be provided upon the employee's return to work.

D. Limitations on use:

1. An employee shall make a reasonable attempt to schedule academic activities outside of regular work hours.

2. Eligible employees are not entitled to use more than six (6) hours of parental involvement leave in any one-month period. A department or agency may require that parental involvement leave be taken in no longer than three (3) hour increments.

3. A department or agency may limit the ability of an eligible employee to take parental involvement leave in cases of emergency, or where a person's health or safety may be endangered, or where the absence of the employee would result in a halt of service or production.

E. Substitution of paid leave: Parental involvement leave is unpaid leave, unless an eligible employee elects to substitute PTO, sick leave, donated leave, vacation leave or other accrued paid leave for unpaid parental involvement leave.

(Section 11-140 reserved for future use)

Section 11-150 Family & Medical Leave Act Policy

It is the policy of the Career Service Board to provide leave under the Family & Medical Leave Act of 1993 ("FMLA") to eligible employees. The purpose of FMLA leave is to provide up to twelve weeks of job-protected leave in a twelve-month period to eligible employees for specified immediate family and medical reasons. This rule is intended to comply with and be interpreted consistent with the FMLA and its corresponding regulations. To the extent an issue is not addressed herein, the FMLA and its corresponding regulations shall govern.

11-151 When Leave under the Family & Medical Leave Act May be Used

FMLA leave shall only be available:

A. For the birth and care of a newborn child of the employee (including a newborn child born into a domestic partnership);

B. For placement with the employee or the employee's domestic partner of a child for adoption, foster care or legal guardianship;

C. To care for an employee's immediate family member with a serious health condition; or

D. To take leave when the employee is unable to perform the functions of the employee's job because of a serious health condition.

11-152 Eligibility for FMLA leave

Any employee who has been employed by the City for at least twelve (12) months and who has worked at least twelve hundred and fifty (1,250) hours in the twelve (12) months preceding the beginning of the leave shall be eligible for FMLA leave.

11-153 Requesting FMLA leave

A. An employee may expressly request FMLA leave, or may merely state that he or she needs leave for a reason which the appointing authority knows is a qualifying reason for FMLA leave. In either instance, the appointing authority shall notify the employee that the leave may qualify as FMLA leave and request and provide information in accordance with this rule.

B. In any situation where the need for FMLA leave is foreseeable, an employee shall provide thirty (30) days' notice or such notice as is practicable.

C. In any situation where the need for FMLA leave is not foreseeable, the employee shall provide such notice as is practicable. Such notice may be provided by the employee or the employee's spokesperson if the employee is unable to do so personally. The employee or the employee's spokesperson will provide more information as required by the appointing authority when it can be readily accomplished as a practical matter.

D. An employee requesting FMLA leave must provide to the appointing authority all information necessary to determine if such leave is appropriate, including:

1. The reasons for the leave so as to allow the appointing authority to determine if the conditions identified in 11-151 have been met.

2. The anticipated start of the leave.

3. The anticipated duration of the leave.

4. Whether or not the employee has a spouse or domestic partner who is also an employee of the City and County of Denver.

5. A health care provider certification on a form provided by the appointing authority consistent with the FMLA.

Information provided to the appointing authority regarding an employee's FMLA leave shall be maintained in a confidential file separate from the employee's personnel file.

E. A request for FMLA leave which does not satisfy the conditions identified in 11-151 may be denied or delayed.

F. A denial of a request for FMLA leave shall not preclude granting PTO or sick leave if the conditions identified in these rules are met.

11-154 Use of FMLA leave

A. No more than twelve (12) workweeks of FMLA leave may be used in any twelve (12) month period. The twelve (12) month period shall begin when FMLA leave was first used by an employee.

B. FMLA leave shall be granted consecutively, intermittently or on a reduced leave schedule, as provided for under the FMLA. Provided, however, if an employee requests FMLA leave intermittently or on a reduced leave schedule after the birth or placement of a child for adoption, foster care or legal guardianship, such leave shall be granted if it is consistent with the reasonable operational necessity of the agency, as determined by the appointing authority.

C. It is the appointing authority's responsibility to designate qualifying leave as FMLA leave and the appointing authority shall notify the employee of such designation and provide other required information about FMLA leave. An employee may not refuse to allow the appointing authority to designate qualifying leave as FMLA leave.

D. FMLA leave is unpaid leave, unless an employee elects to substitute available paid leave for unpaid FMLA leave, subject to the limitations in this Rule 11 on the use of paid leave while on disability leave or Workers' Compensation leave (Revised June 11, 2012; Rule Revision Memo 63C).

E. In the case where both spouses or domestic partners are employees, the amount of FMLA leave available shall be determined as follows:

1. When the leave is because of birth, adoption, foster care or legal guardianship of a child, or serious health condition of a member of either employee's immediate family (other than a child, spouse or domestic partner), the FMLA leave available shall be the combined total of twelve (12) weeks of FMLA leave during any twelve (12) month period.

2. When the leave is because of a serious health condition of either or both employees or a child, twelve (12) weeks of FMLA leave may be used by each employee in any twelve (12) month period.

11-155 Secondary employment during FMLA leave

Appointing authorities may deny secondary employment during FMLA leave.

11-156 Investigation of Use of FMLA leave

Appointing authorities may investigate the use of FMLA leave consistent with the FMLA, including by a requiring a second opinion and third opinion, if appropriate. Misuse of FMLA leave may be cause for disciplinary action up to and including dismissal. An appointing authority may not discipline an employee for appropriate use of FMLA leave.

11-157 Re-assignment

If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on the planned medical treatment for the employee or an immediate family member, or if the appointing authority agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption, foster care or legal guardianship, the appointing authority may require the employee to transfer temporarily, during the period the intermittent or reduce leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position.

11-158 Maintenance of Benefits

A. It shall be the responsibility of an employee on unpaid FMLA leave to provide that share of payment(s) necessary to maintain health insurance coverage as directed by the appointing authority.

B. During any FMLA leave, the City must maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period.

11-159 Return from FMLA Leave

A. An employee returning from FMLA leave due to his or her own serious health condition shall provide a certification from the employee's health care provider that the employee is able to resume work. An employee further may be required to report periodically on the employee's status and intent to return to work.

B. An employee returning from FMLA leave shall be returned to the same position the employee held when leave began or to an equivalent position which is defined by the FMLA regulations as a position that is virtually identical to the employee's former position in terms of pay, benefits and working conditions.

C. An employee need not be re-instated if the employee would not otherwise have been employed at the time re-instatement is requested.

D. When an employee returning from FMLA leave is not qualified or able to perform the essential functions of the position to which the employee was returned, the employee shall be given a reasonable opportunity in which to become qualified or seek accommodation so long as such accommodation is required by and consistent with the Americans with Disabilities Act ("ADA").

E. If the employee is unable to return to work at the conclusion of FMLA leave, the appointing authority shall initiate the interactive process as provided in Rule 5 **APPOINTMENTS AND STATUS**, within twenty (20) days of the expiration of the employee's FMLA leave, unless the employee is also on disability leave or Workers' Compensation leave (Revised June 11, 2012; Rule Revision Memo 63C).

11-160 Additional information regarding the FMLA

Appointing authorities shall post information and otherwise provide information regarding the FMLA as required by the FMLA. In addition, information may be found on the United States Department of Labor's website, www.dol.gov.

Section 11-170 ADA Leave

A. ADA leave shall be provided:

1. During the interactive process if an employee is unable to perform his or her existing job;

2. During any period of leave that is provided to the employee as a reasonable accommodation as a result of the interactive process.

B. ADA leave is unpaid leave, unless an employee elects to substitute available paid leave for unpaid ADA leave.

APPENDIX 11.A.

DENVER REVISED MUNICIPAL CODE
CHAPTER 18 – EMPLOYEE AND OFFICER PAY AND BENEFITS
ARTICLE V. – LEAVE AND HOLIDAYS
DIVISION 4 – DISABILITY LEAVE

Sec. 18-151. Definitions.

The following words and phrases, when used in this division, shall have the meanings respectively ascribed to them:

(1) *Disability* shall mean physical inability of an eligible employee or appointed Charter officer to perform the duties of the position or any other position within or outside the city due to injury or occupational disease incurred in the course of employment with the city.

(2) *Disability leave* shall mean the difference between the employee's temporary disability rate as established in the Workers' Compensation Act of Colorado, Title 8, Articles 40 - 47, C.R.S., as amended, ("the Act") and eighty (80) percent of his/her gross salary.

(3) *Eligible employees and charter officers* shall mean any persons occupying either full-time or part-time positions in the employ of the city or any of the departments thereof, and officers as defined in section 9.2.1 of the charter, with the exception of the following:

a. Members of the classified service of the police and fire departments;

b. Certain trainees as defined in the career service rules;

c. Persons occupying or employed in on-call, temporary, seasonal, or contract positions, or positions in which the incumbent is paid according to the community rate schedule; and

d. Employees in the deputy sheriff classifications.

(5) *Temporary disability benefits* shall mean the disability indemnity payable as wages to an eligible employee or appointed Charter officer under the provisions of the Workers' Compensation Act for the duration of the temporary total or partial disability.

This Appendix is provided for informational purposes and is not considered a part of the Rules.

Sec. 18-152. Disability leave allowance.

Subject to the following provisions, eligible employees and appointed Charter officers shall be granted disability leave with pay for a period not to exceed ninety (90) consecutive calendar days for each occupational injury or occupational disease:

(1) Disability leave shall begin with the first day of disability provided, however, that disability leave shall be granted only if:

a. A claim for temporary disability benefits has been allowed without a penalty for failure to use a safety device, failure to follow a safety rule, injury because of intoxication, or other penalty as may be provided by law; and

b. The disability continues for more than three (3) shift periods.

(2) Every employee who sustains an injury shall immediately notify their supervisor of the injury and shall provide written notice to the supervisor within four (4) days of its occurrence, unless the employee shall be physically or mentally unable to do so, or unless the foreman, superintendent, manager or other person in charge shall have actual notice of the injury. If the employee shall fail to report the injury, the employee shall lose one (1) day's disability leave for each day's failure to so report. If anyone shall report the accident for the injured employee within the time above specified, then the injured employee shall be relieved from reporting the accident.

(3) If the disability extends beyond the date of mandatory retirement of an eligible employee or appointed Charter officer, such date shall terminate the disability leave with pay.

Sec. 18-153. Career service rules.

The career service rules shall include provisions implementing this division relating to disability leave.

This Appendix is provided for informational purposes and is not considered a part of the Rules.

APPENDIX 11.B.

DENVER REVISED MUNICIPAL CODE
Sec. 18-164. Military pay differential.

(a) Employees in the career service and members of the classified service of the police and fire departments called to active military duty in time of war or national emergency are eligible for a military pay differential.

(b) The military pay differential is a benefit and not an entitlement, and applies only to employees in the career service and members of the classified service of the police and fire departments who are uniformed service members and who are called to active duty with written orders for military service exceeding one hundred seventy-nine (179) days in time of war or national emergency, and who are actually engaged in active military duty after December 31, 2005. A uniformed service member is defined as any member of the Army, Navy, Marines, Air Force, Coast Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, and Coast Guard Reserve, Army National Guard and the Air National Guard.

(c) The military pay differential shall consist of the difference between the total compensation received by the employee while engaged in active military service and the amount of base salary the employee would have earned from the city had the employee not been called to active duty. In no event shall the military pay differential, coupled with the employee's military compensation, exceed the base salary the employee would have received had the employee not been called to active duty and remained in his or her position of employment with the city.

(d) The manager of safety and the career service board shall establish written policies and procedures for administration of the military pay differential. The city attorney shall approve these policies and procedures prior to implementation.

(e) This section 18-164 is automatically repealed at 11:59 p.m. on December 31, 2012.

This Appendix is provided for informational purposes and is not considered a part of the Rules.

RULE 13
PAY FOR PERFORMANCE

(Revised January 1, 2014; Rule Revision Memo 7D)

Purpose statement:

The purpose of this rule is to explain the Performance Enhancement Program ("PEP") and how the individual performance of eligible Career Service employees is evaluated, reported and rewarded with merit increases and merit payments.

Section 13-10 Definitions:

A. Eligible Employee: All Career Service employees are eligible for merit increases and merit payments as provided in this Rule, except:

1. On-call employees;

2. Employees holding positions in the Training pay schedule, which only has one pay rate and cannot support merit increases; and

3. Employees who hold positions in classifications contained in the Undersheriff pay schedules.

B. Merit Increase: Periodic increase to an employee's base rate of pay determined by an employee's performance rating and location in the applicable pay range.

C. Merit Payment: Lump sum payment of a percentage of an employee's current annual base salary. A merit payment will not increase an employee's base rate of pay.

D. Performance Improvement Plan ("PIP"): A document which may be used at any time during an employee's evaluation period to supplement the employee's PEP plan that may include, but is not limited to, levels of performance that must be achieved to obtain a successful rating, current performance deficiencies, support that may be provided by the department or agency, actions the employee must take to address the performance deficiencies, and a timeline for completion of the actions.

Section 13-20 Performance Enhancement Program

13-21 Purpose

The purposes of the PEP are to outline job expectations, establish performance outcomes and measures, encourage and support professional development, provide on-going performance feedback, and evaluate performance in a timely manner.

13-22 Written PEP Plan

Upon appointment to a position, or the assignment of substantially different duties, an eligible employee's supervisor shall provide the employee with a written PEP plan setting forth the performance outcomes and measures against which an employee's performance is evaluated every year.

13-23 PEP Reporting

A. All eligible employees shall have their performance for the previous calendar year formally evaluated and rated in a PEP Report ("PEPR"). This evaluation shall occur once every year according to the schedule attached as Appendix A.

B. 1. Eligible employees who have been absent from their position for less than a calendar year shall have their performance while present at work evaluated as provided in this rule.

2. Eligible employees who have been on a leave of absence from their position for all of the preceding calendar year shall have their pay adjusted to reflect what they would have received with a "Successful" merit increase set at the mid-point of the applicable range for the quartile containing the employee's pay rate.

13-24 Interim PEPRs

A. Whenever an eligible employee permanently changes supervisors, an interim PEPR shall be completed by the employee's former supervisor. If the change in supervisors is the result of the employee's former supervisor terminating employment with the City, the next level manager will be responsible for completing the interim PEPR. The interim PEPR shall cover the period from the beginning of the year until the effective date of the change in supervisors.

B. If an employee's former supervisor or next level manager fails to complete an interim PEPR and submit it to the current supervisor within thirty (30) calendar days after the transaction date, a rating of "Successful" shall be the presumptive rating for the relevant period.

C. The employee's current supervisor shall prepare a PEPR for the entire calendar year. This performance rating should take into account the performance rating on the interim PEPR and the employee's current performance in proportion to the time spent in each assignment. However, nothing herein shall prevent an employee from receiving an overall annual rating higher or lower than the rating given on the interim PEPR.

Section 13-30 PEP Process

13-31 Performance Ratings

A. An eligible employee's overall performance shall be rated in an employee's PEPR as one of the following:

1. Failing: Work does not meet expectations in most, if not all, areas.

2. Below expectations: Meets many, but not all job requirements. Outcomes are generally less than expected, with improvement required in one or more specific areas.

3. Successful: Consistently achieved performance standards.

4. Exceeds expectations: Consistently performs well above expected job requirements. Outcomes frequently surpass expectations.

5. Outstanding: Consistently delivers outcomes not often achieved by others; always exceeds standards.

B. "Failing" Rating Procedure:

1. If an eligible employee's annual performance rating is expected to be "Failing," the department or agency shall advise the employee of the expected rating a reasonable time in advance, but not less than seven (7) calendar days prior to the date of the meeting scheduled to review the employee's PEPR, and shall allow representation at the meeting to review the PEPR in accordance with the provisions of Rule 15 **CODE OF CONDUCT**.

2. The employee shall be provided with a PIP no later than ten (10) calendar days after the date the PEPR is reviewed with the employee.

13-32 Merit Increases and Merit Payments

A. The funding for merit increases and merit payments is provided in the annual appropriation ordinance. The pay increase associated with a particular performance rating shall be reviewed annually and adjusted as necessary to reflect prevailing practices in the community. The award of merit increases and merit payments is contingent upon this annual appropriation being approved by City Council and the Mayor. In case of a conflict between ordinance and these rules, the ordinance will prevail.

B. Departments and agencies are responsible for determining the percentage increase associated with each employee rating within each quartile. The percent increase for all eligible employees shall average 3.0% for merit increases and merit payments delivered in 2015.

C. Merit Table:

1. Eligibility for merit increases and merit payments is based on an eligible employee's overall annual performance rating as measured by a PEPR and the quartile in which the employee's salary is found in accordance with the following table:

Rating	1st Quartile	2nd Quartile	3rd Quartile	4th Quartile	Range Maximum	Above Range
5. Outstanding	4.3-4.7%	3.8-4.2%	3.3-3.7%	1.8-2.2% plus 1% Merit Payment	1% Merit Payment	1% Merit Payment
4. Exceeds Expectations	3.6-4.0%	3.1-3.5%	2.6-3.0%	1.1-1.5% plus 1% Merit Payment	1% Merit Payment	1% Merit Payment
3. Successful	3.1-3.5%	2.6-3.0%	2.1-2.5%	0.6-1.0% plus 1% Merit Payment	0.0%	0.0%
2. Below Expectations	0.0-0.8%	0.0-0.5%	0.0%	0.0%	0.0%	0.0%
1. Failing	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

2. However, no eligible employee shall receive a merit increase that exceeds the range maximum of the pay grade assigned to the employee's job classification. If the application of this sub-paragraph results in an employee receiving a merit increase that is less than the percentage increase awarded to the employee, the employee shall receive the difference between the merit increase awarded and the merit increase received in the form of an additional merit payment.

D. In the case of a declared fiscal emergency by the Mayor, and upon the request of the Mayor, there will be no merit increases or merit payments awarded for increments of at least one year. During the declared fiscal emergency appointing authorities, managers and supervisors shall complete PEPRs for eligible employees, but no merit increases or merit payments will be awarded during this time.

13-33 Pro-ration for New Hires

Employees hired after January in the previous year shall have their merit increase and/or merit payment reduced by 1/12th for the number of months after January their hire or re-hire date occurs. For instance, employees hired in February shall have their merit increase and/or merit payment for that year reduced by 1/12th. Employees hired in December shall have their merit increase and/or merit payment for that year reduced by 11/12ths.

13-34 Effective Date of Merit Increase

Merit increases and merit payments will be calculated from an employee's annual base salary as of the Saturday before the first Sunday of the calendar year and be effective on the first Sunday of the calendar year for eligible employees who were employed in the Career Service on December 31st of the previous year.

13-35 Enforcement of PEPR Schedule

A. Departments and agencies shall submit proposed merit increases and merit payments to the Office of Human Resources ("OHR") as provided in the schedule attached as Appendix A.

B. 1. If a supervisor's or manager's failure to meet the deadlines set forth in Appendix A is a contributing reason to an appointing authority's failure to meet the deadline for submitting recommended merit increases and merit payments to the OHR for all of the appointing authority's eligible employees, the supervisor's or manager's rating shall be reduced as follows:

a. If the supervisor's or manager has missed a deadline, that supervisor or manager's rating for the outcome related to the timeliness of PEPRs shall not exceed "Below expectations."

b. Once the supervisor or manager is more than one week late in meeting a deadline set forth in Appendix A, the overall performance rating that supervisor or manager would otherwise have received for the previous calendar year shall be reduced by one rating.

c. Each additional seven day period of delay shall result in the supervisor's or manager's rating being reduced one rating for each additional seven day period.

2. An appointing authority may request that the OHR Executive Director grant a supervisor or manager who is more than one week late in meeting a deadline set forth in Appendix A, relief from the operation of this paragraph 13-35 B, due to a showing of extenuating circumstances beyond the reasonable control or advance knowledge of the employee.

C. The failure of a supervisor or manager to meet the deadlines set forth in Appendix A may also be grounds for discipline, up to and including dismissal, for failure to perform assigned duties under Rule 16 **DISCIPLINE AND DISMISSAL**.

13-36 Review of PEPR with Employee

Each employee's PEPR shall be reviewed with the employee as provided in the schedule attached as Appendix A.

13-37 Official Records

The PEPR and any supporting documentation shall be made a permanent part of the employee's official personnel record.

13-38 Discipline

The PEP plan and PEPR may be used as a basis for disciplinary action under Rule 16 **DISCIPLINE AND DISMISSAL**, up to and including dismissal, if an employee's performance fails to comport with the standards set forth in the PEP plan.

13-39 Grievances and Appeals Relating to PEPRs

A. An eligible employee may grieve any performance rating pursuant to Rule 18 **DISPUTE RESOLUTION**.

B. An eligible employee may appeal a grievance of a "Failing" rating in accordance with Rule 19 **APPEALS**. Appeals of grievances of other ratings are not permitted.

C. An eligible employee may not grieve or appeal any other aspect of the PEP.

13-40 Employees in the Community Rate and Short-range Pay Schedules

Employees holding positions in the Community Rate and Short-range pay schedules are on-call, accordingly, merit increases and merit payments are not available. However, employees in these schedules may receive a two and one quarter percent (2.25%) pay increase (not to exceed the range maximum of the applicable range) upon the approval of the appointing authority, except during a declared fiscal emergency, after having served:

A. Two consecutive annual terms (an annual term is a minimum of three hundred (300) hours); or

B. One term and completion of a certificate program as approved by the appointing authority.

APPENDIX 13.A

2014 PEPR SCHEDULE

DUE DATE	TASK
February 6, 2015	Deadline for performance evaluations for the 2014 calendar year to be completed by subordinate supervisors and managers.
February 20, 2015	Deadline for appointing authorities to submit merit increase and merit payment recommendations to the OHR. All eligible employees must be accounted for in these recommendations. The percent increase for all eligible employees in a department or agency should average 3.0% for merit increases and merit payments delivered in 2015. Supervisors may begin meeting with employees to review PEPRs and merit increase amount once the OHR has reviewed and approved merit increase and merit payment recommendations.
March 27, 2015	Merit increases and merit payments appear on employee paychecks.
April 10, 2015	Merit increases and merit payments are paid retro-actively for the period from January 4th until March 7th.

This Appendix is provided for informational purposes and is not considered a part of the Rules.

RULE 14
SEPARATION OTHER THAN DISMISSAL

Purpose Statement:

The purpose of this rule is to define the circumstances and processes by which an employee in the Career Service may be separated from employment other than by dismissal (Effective May 7, 2012; Rule Revision Memo 62C).

Section 14-10 Types of Separation Other Than Dismissal
(Revised May 7, 2012; Rule Revision Memo 62C)

A. The separation of an employee from the Career Service other than by dismissal shall be designated one of the following:

   1. Disqualification;

   2. Separation of employees holding non-career, trainee or intern probationary, or employment probationary status;

   3. Lay-off;

   4. Resignation;

   5. Retirement;

   6. Death.

B. Written notices required under this Rule 14 shall be served either in person with a certificate of hand delivery, or by first class U.S. mail, with a certificate of mailing.

C. The personnel action shall show the reason for the separation and the employee's last day as a City employee. The effective date of the separation shall be the day after the employee's last day as a City employee.

D. Employees who separate from employment with the City shall receive payment for all compensatory time, paid time off, and vacation and sick leave, for which they are eligible according to the provisions of Rule 9 **PAY ADMINISTRATION** and Rule 10 **PAID LEAVE**.

E. A separation of an employee under this Rule 14 is considered to be a separation without fault. An employee who has been separated under this Rule 14 may be considered for re-employment without examination as provided in Rule 3 **SELECTION**.

Section 14-15 Designees
(Effective May 7, 2012; Rule Revision Memo 62C)

Appointing authorities, including the Office of Human Resources ("OHR") Executive Director, may delegate any authority given to them under this Rule 14 to a subordinate employee except the authority to sign and submit lay-off plans to the OHR.

Section 14-20 Disqualification
(Revised July 19, 2012; Rule Revision Memo 64C)

Disqualification is an involuntary, no-fault separation of an employee, based on a legal, physical, or mental impairment or incapacity of the employee, occurring or discovered after appointment, which prevents performance of the essential functions of the position.

14-21 Grounds for Disqualification

An employee may be disqualified if any of the following conditions occur:

A. Physical or mental impairment or incapacity:

1. When an employee is unable to perform the essential functions of the position because of mental or physical impairment or incapacity, with or without reasonable accommodation.

2. Before an employee can be disqualified because of a physical or mental impairment or incapacity, the employee's department or agency must have initiated the interactive process under the Americans with Disabilities Act of 1990 (ADA), as amended (described in Rule 5 **APPOINTMENTS AND STATUS**), and the ADA Coordinator must have concluded the process and referred the employee's case back to the department or agency without making an accommodation because no reasonable accommodation was available or an offered reasonable accommodation was refused by the employee.

B. Licensure, certification and other legal requirements:

1. When laws require a license, certification, or other authorization by a federal, state or local governmental entity to perform the essential functions of a position and the employee does not have the required authorization.

2. An employee shall be relieved immediately of any duties requiring a license, certification, or other legal authorization if the employee lacks such license, certification, or other legal authorization. If the license, certification, or other legal authorization is required to perform the essential functions of the position, the employee shall be immediately placed on unpaid leave, unless the employee elects to substitute available paid leave for the unpaid leave. The employee's pay or classification shall not otherwise be affected prior to the completion of the disqualification proceedings.

14-22 Procedure

A. The appointing authority shall follow the procedures for pre-disciplinary meetings before taking any action on the disqualification.

B. The final notice of disqualification shall contain the same statement of the reason for the disqualification as contained in the pre-disqualification letter. Substantial amendments or additions are permitted only by repeating the pre-disqualification notice and meeting procedure. The final notice shall also contain a notice that the employee may appeal the disqualification.

C. The appointing authority shall give the employee written notice of disqualification on or before the employee's last day as a City employee.

Section 14-30 Separation of Employees Holding Non-career, Trainee or Intern Probationary, or Employment Probationary Status
(Revised May 7, 2012; Rule Revision Memo 62C)

A. An employee holding non-career, trainee or intern probationary, or employment probationary status may be separated at any time in accordance with Rule 5 **APPOINTMENTS AND STATUS**. Such separation may only be appealed on the grounds of alleged discrimination or when the employee has alleged a violation of the City's "Whistleblower Protection" ordinance, in accordance with Rule 19 **APPEALS**.

B. The employee shall be given written notice of separation on or before the employee's last day as a City employee.

C. Employees holding on-call, trainee or intern probationary, or employment probationary status may also be dismissed as provided in Rule 16 **DISCIPLINE AND DISMISSAL**.

Section 14-40 Lay-off
(Effective August 1, 1980, Rule Revision Memo124A; Revised March 19, 2004, Rule Revision Memo 247B)

14-41 Definition

The separation of a Career Status, unlimited employee or a limited employee appointed prior to January 16, 2004 from the Career Service resulting from the abolishment of a position (Revised March 19, 2004; Rule Revision Memo 247B).

14-42 Order of Lay-off

A. Lay-off unit: Lay-offs shall be determined by lay-off unit. Lay-off units are appropriation accounts, appropriation sub-accounts, combinations of appropriation sub-accounts, or combinations of appropriation accounts which have been consolidated or de-consolidated in accordance with paragraph 14-42 B Consolidation of appropriation accounts (Revised March 19, 2004; Rule Revision Memo 247B).

B. Consolidation of appropriation accounts:

1. The Career Service Board ("Board") may consolidate appropriation accounts or appropriation sub-accounts within a department into one lay-off unit if it can be shown that there is a high correlation between the activities of one unit of the department and others proposed to be consolidated (Revised March 19, 2004; Rule Revision Memo 247B).

2. The Board may reverse the consolidation of appropriation accounts or appropriation sub-accounts making up one lay-off unit, or break a lay-off unit consisting of one appropriation account into sub-accounts or combinations of sub-accounts, based on business functions demonstrated by the department or upon a showing that circumstances giving rise to the consolidation are no longer applicable (Revised March 19, 2004; Rule Revision Memo 247B).

3. A request for such consolidation or de-consolidation of appropriation accounts may be initiated by appointing authorities, employees, or the OHR Executive Director and shall be determined by the Board only after interested parties have been given an opportunity to be heard in accordance with Rule 2 **OFFICE OF HUMAN RESOURCES**.

4. Changes to lay-off units must be approved a minimum of forty-five (45) days prior to the effective date of the lay-off (Revised March 19, 2004; Rule Revision Memo 247B).

C. Appointing authority designates positions: The appointing authority shall determine the number of positions by class which are to be abolished within the lay-off unit.

D. Relation of positions to incumbents in lay-off: When lay-off is involved, there is no relation between the positions which are abolished and the incumbents of those positions. The order of lay-off is according to this Rule 9.

E. Establishment of lay-off groups: After separating all non-Career status employees and abolishing all vacant positions in the class, the appointing authority shall divide the employees in the class where positions are being abolished into the following groups:

Group A - Employees whose total length of service is up to five years;

Group B - Employees whose total length of service is five years and up to ten years;

Group C - Employees whose total length of service is ten years and up to fifteen years;

Group D - Employees whose total length of service is fifteen (15) years and above (Revised March 19, 2004; Rule Revision Memo 247B).

These lay-off groups are for the purpose of determining proficiency adjustments as covered in paragraph 14-44 C Effect of proficiency.

F. Effect of special qualification on lay-off group: When an employee possesses a significant and unique skill which cannot readily be learned by another employee and which is essential for the performance of the duties of the position, the OHR Executive Director, after thorough review and investigation, may determine that the possession of such a skill shall constitute an exception for lay-off purposes only; provided, however, that should another employee possess such a skill, such employee scheduled to be laid off shall displace the incumbent.

14-43 Length of Service

A. General rule: For lay-off purposes, length of service shall mean the total number of years, months, and days of continuous service in any class under career service. This computation shall include time on leave, including unpaid leave, but shall not include service in any on-call position.

B. Additional length of service credits from military service: Pursuant to the Colorado Constitution, Article XII, Section 15 (See Appendix), military service shall be added to the length of service for lay-off purposes under the following conditions (Effective May 4, 2007, Rule Revision Memo 18C):

1. General provision on military service credits eligibility: The amount of military service credited shall be the total number of years, months, and days served in the following situations, other than for training purposes:

   a. Service in any branch of the armed forces of the United States during any period of any declared war or any undeclared war or other armed hostilities against an armed foreign enemy; or

   b. Service on active duty in any such branch in any campaign or expedition for which a campaign badge is authorized (Revised March 19, 2004; Rule Revision Memo 247B).

2. Other provisions regarding military service credits:

   a. For employees who have completed twenty (20) or more years of active military service, no military service shall be counted in determining length of service for lay-off purposes.

   b. For employees who have completed less than twenty (20) years of active military service, eligible military service credits shall not exceed ten (10) years.

   c. Employees who were granted leave of absence without pay for the purpose of serving on active military duty as defined in paragraph 14-43 B Additional length of service credits from military service shall not be credited with military service time, but shall have the leave of absence without pay included in determining their length of service.

   d. To be eligible for military service credits, employees must have been separated from such service under honorable conditions (Revised March 19, 2004; Rule Revision Memo 247B).

   e. Employees whose spouse died while serving or as a result of a service-connected cause are also eligible for military service credits as defined and limited above (Revised March 19, 2004; Rule Revision Memo 247B).

3. Proof of eligibility for military service credits: Proof of eligibility for military service credits shall be established in accordance with the provisions of Article XII, Section 15 (2) of the Colorado Constitution (Effective May 4, 2007, Rule Revision Memo 18C).

C. Former Merit System employees: Employees transitioned from the merit system to Career Service under the Human Services Department transition charter amendment effective January 1, 1999 shall be given credit for continuous service as follows:

1. At the time of the lay-off, employees who are assigned to the Department of Human Services and have been continuously assigned to said department since January 1, 1999 shall have their length of service calculated from the date the employee was employed with the merit system.

2. After January 1, 1999, employees who voluntarily transfer to another department in the city shall have their length of service calculated from the date of continuous service with the City and County of Denver, provided that employees who involuntarily transfer to another department shall have their length of service calculated pursuant to the previous subparagraph (Revised March 19, 2004; Rule Revision Memo 247B).

D. Election Commission transition: Election Commission employees who are appointed to Career Service Election Division positions pursuant to the charter amendment effective July 16, 2007 shall be given credit for continuous service as follows:

1. At the time of the lay-off, employees who hold positions in the Election Division and have been continuously employed in this agency since July 16, 2007 shall have their length of service calculated from the date the employee's continuous service in a full or part-time position with the City began.

2. After July 16, 2007, Election Division employees who voluntarily accept an appointment to a position in another department in the City shall have their length of service calculated from the date of continuous service with the Career Service, provided that employees who are involuntarily moved to another department shall have their length of service calculated pursuant to the previous subparagraph (Effective June 8, 2007; Rule Revision Memo 19C: Revised May 31, 2011; Rule Revision Memo 53C).

E. Office of Telecommunications transition: Employees of the Office of Telecommunications as of July 31, 2011, who are subsequently appointed to Career Service positions in Technology Services shall be given credit for continuous service as follows:

1. At the time of the lay-off, such employees who hold positions in Technology Services and have been continuously employed in this office since August 1, 2011 shall have their length of service calculated from the date the employee's continuous service in a full or part-time position with the City began.

2. After August 1, 2011, such employees of Technology Services who voluntarily accept an appointment to a position outside of Technology Services shall have their length of service calculated from the date of continuous service with the Career Service, provided that employees who are involuntarily moved to another department shall have their length of service calculated pursuant to the previous subparagraph (Effective May 31, 2011; Rule Revision Memo 53C).

14-44 Sequence of Lay-offs

A. General: Unlimited employees and limited employees appointed to their positions before January 16, 2004 in Group A shall be laid off before employees in Group B, employees in Group B before employees in Group C, etc.

B. Effect of military service credits: Employees eligible for military service credits, who have the same or greater length of service, shall be placed higher in rank order than employees who are not eligible for military service credits.

C. Effect of proficiency:

1. Employees eligible for military service credits shall have their rank order determined solely on the basis of seniority.

2. Within lay-off groups, the appointing authority may choose to rank employees on their knowledge, skills, abilities, expertise and/or documented performance ("proficiency") and place employees with greater proficiency above employees with longer length of service who are not eligible for military service credits. In no event may a more proficient employee be placed higher than an employee with longer length of service who is eligible for military service credits. The OHR must review and approve the criteria and procedures used to determine proficiency as part of it's responsibility to audit and approve the lay-off plan as set forth in paragraph 14-46 B (Revised March 19, 2004; Rule Revision Memo 247B).

3. Within lay-off groups, the appointing authority may place below employees with the lesser length of service the less proficient employee. In no event, however, shall an employee eligible for military service credits be placed lower than an employee with lesser length of service.

14-45 Actions In Lieu of Lay-off

A. Reassignment or transfer appointment: An employee selected to be laid off shall be given a transfer appointment to any vacancy for which qualified within the lay-off unit, subject to paragraphs 14-45 C, D and E (Revised March 19, 2004; Rule Revision Memo 247B).

B. Demotional Appointment

1. General: An employee selected to be laid off shall be entitled to a demotional appointment to an existing position in the same lay-off unit in a class below the employee's present class which is the highest ranking class meeting each of the following conditions:

a. The employee possesses the knowledge, skills, ability, and expertise to perform the essential duties of the position;

b. The class is in the same class series as the employee's present class, or the employee previously held a position in such class; and

c. The employee's total length of service as defined in subsection 14-43 Length of Service must be greater than that of at least one (1) of the incumbents in the class; or there must be a vacancy in the class (Revised March 19, 2004; Rule Revision Memo 247B).

2. Effect on incumbent of position to which demotional appointment is made: When it has been determined that a demotional appointment to a filled position in the lay-off unit which meets the criteria in subparagraph 14-45 B.1 General, should take place, the person in the class of such position who has the shortest length of service as defined in subsection 14-43 Length of Service shall be the employee who is laid off. The employee in the lower class shall be entitled to actions in lieu of lay-off pursuant to this subsection 14-45.

C. Effect of special qualifications: If a vacancy in a position in a pay grade with the same job rate, or if the position in the class to which such employee is to be given a demotional appointment, is one which requires a special skill as defined In paragraph 14-42 F Effect of special qualification on lay-off group, The OHR Executive Director, after thorough review and investigation, may designate the possession of such skill as a qualification for a demotional appointment to that position.

D. Effect of position type: If the person designated to be laid off holds a full-time unlimited position, and the position which meets the provisions of paragraphs 14-45 A or B.1 is a part-time, on call, or limited position, the employee shall be offered a choice of the part-time, on call, or limited position, or the highest available full-time unlimited position meeting the qualifications of paragraph 14-45 B.1, for which qualified.

E. Reassignment to limited position: If there are limited positions in the same class in the lay-off unit, an employee selected to be laid-off shall be given the choice of being reassigned to a limited position in lieu of lay-off, even though it is necessary to separate another employee from that position. This offer shall be made regardless of the length of service of the employee in the limited position, if appointed after January 16, 2004. This reassignment shall not result in removal of the employee from the re-instatement list or lists (Revised March 19, 2004; Rule Revision Memo 247B).

F. Voluntary action in lieu of lay-off: Employees who demote to a position other than the one described in paragraph 14-45 B or who resign during a period of agency lay-offs, and these actions occur prior to the actual lay-off date, may retain their re-instatement rights pursuant to the following procedure:

1. All demotions and separations during periods of lay-off will be examined to determine the causes of the transaction. Appointing authorities are asked to aid this process by entering an appropriate statement in the Remarks Section of the Personnel Action when a voluntary demotion or separation is the direct result of current lay-off proceedings.

2. If the OHR determines that the demotion or separation is in lieu of lay-off, it will place the employee's name on the appropriate re-instatement list.

3. Such actions in lieu of lay-off shall be considered to be voluntary actions and pay shall be set in accordance with the provisions of Rule 9 **PAY ADMINISTRATION** governing voluntary demotions (Revised March 19, 2004; Rule Revision Memo 247B: Revised April 1, 2006; Rule Revision Memo 7C).

14-46 Notice of Lay-Off
(Revised May 7, 2012; Rule Revision Memo 62C)

A. Lay-off planning: Lay-off planning, including actions in lieu of lay-off, is the responsibility of the appointing authority. However, the OHR is available for procedural assistance and consultation as soon as the appointing authority has decided the number of positions by class to be abolished.

B. Audit and approval of lay-off plan: Before an official notice of lay-off is given in accordance with this Rule 14, a written lay-off plan for the lay-off unit signed by the appointing authority shall be submitted to the OHR and shall have been audited and approved in writing by the OHR Executive Director for conformance to Section 14-40 Lay-Off of these rules, including all sub-sections thereof. In the case of a lay-off in the OHR, the lay-off plan shall be signed by the manager responsible for the lay-off unit affected by the lay-off.

C. Thirty-day notices: The appointing authority shall give final written notice of lay-off to an affected employee a minimum of thirty (30) calendar days before the employee's last day as a City employee. A copy of each such notice shall be sent to the OHR. The period of time shall be computed in accordance with Rule 19 **APPEALS**.

14-47 Re-instatement
(Revised May 7, 2012; Rule Revision Memo 62C)

A. Re-instatement appointments: The right of a former employee who was laid off, to be re-instated is set forth in Rule 3 **SELECTION**.

B. Promotional re-instatement appointments: The right of an employee, who was given a demotion in lieu of lay-off, to be re-instated is set forth in Rule 3 **SELECTION**.

C. Restoration of the balance of sick leave credits upon re-instatement shall be in accordance with Rule 10 **PAID LEAVE**.

14-48 Appeal
(Renumbered May 7, 2012; Rule Revision Memo 62C)

An employee who is laid off or who is demoted in lieu of lay-off may appeal the action in accordance with Rule 19 **APPEALS**.

Section 14-50 Resignation
(Revised May 7, 2012; Rule Revision Memo 62C)

A. Resignation is the voluntary separation by an employee from the Career Service.

B. Notice to supervisor: It is the responsibility of an employee who plans to resign in good standing from the Career Service to provide written notice to his or her immediate supervisor at least ten (10) calendar days in advance of the employee's last day as a City employee. The appointing authority may waive this requirement for good and sufficient reasons.

C. Job abandonment: An employee's failure to report for his or her assigned shift and notify his or her immediate supervisor of the absence prior to the start of his or her shift for three (3) consecutive work days may be called "job abandonment" and treated like a resignation. The required signature of the employee on the resignation shall be waived. Instead, the appointing authority shall file a statement indicating how the conditions of this paragraph have been met.

D. Appointing authorities are responsible for approving or disapproving employee requests to use paid or unpaid leave (unless otherwise provided in these rules) between the time notice of resignation is given and the employee's last day as a City employee.

14-51 Retirement

Any employee in the Career Service may designate his or her resignation as a retirement when he or she meets the eligibility requirements of the Denver Employees Retirement Plan.

Section 14-55 Death
(Effective May 7, 2012; Rule Revision Memo 62C)

In the case of a separation caused by the death of an employee, the employee's last day as a City employee shall be the date of death.

Section 14-60 Change in Type of Separation
(Revised May 7, 2012; Rule Revision Memo 62C)

When additional facts are revealed that substantially alter the basis for the original decision as to type of separation, the type of separation may be changed. The OHR Executive Director, upon receipt of a written request together with documentation of the reasons for the change, will approve or disapprove the requested change in writing. Only the appointing authority who authorized the personnel action separating the employee, or his or her successor shall be authorized to request a change in the type of separation. A copy of the OHR Executive Director's written approval shall be attached to the personnel action which shall show the type of change and the reason for the change.

APPENDIX 14.A.

CONSTITUTION OF COLORADO
ARTICLE XII, SECTION 15. VETERANS' PREFERENCE

(1) (b) Five points shall be added to the comparative analysis score of each candidate who is separated under honorable conditions and who, other than for training purposes, (i) served in any branch of the armed forces of the United States during any period of any declared war or any undeclared war or other armed hostilities against an armed foreign enemy, or (ii) served on active duty in any such branch in any campaign or expedition for which a campaign badge is authorized.

(c) Ten points shall be added to the comparative analysis score of any candidate who has so served, other than for training purposes, and who, because of disability incurred in the line of duty, is receiving monetary compensation or disability retired benefits by reason of public laws administered by the department of defense or the veterans administration, or any successor thereto.

(d) Five points shall be added to the comparative analysis score of any candidate who is the surviving spouse of any person who was or would have been entitled to additional points under paragraph (b) or (c) of this subsection (1) or of any person who died during such service or as a result of service-connected cause while on active duty in any such branch, other than for training purposes.

(e) No more than a total of ten points shall be added to the comparative analysis score of any such candidate pursuant to this subsection (1).

(2) The certificate of the department of defense or of the veteran's administration, or any successor thereto, shall be conclusive proof of service under honorable conditions or of disability or death incurred in the line of duty during such service.

(3) (a) When a reduction in the work force of the state or any such political subdivision thereof becomes necessary because of lack of work or curtailment of funds, employees not eligible for preference under subsection (1) of this section shall be separated before those so entitled who have the same or more service in the employment of the state or such political subdivision, counting both military service for which such preference is given and such employment with the state or such political subdivision, as the case may be, from which the employee is to be separated.

(b) In the case of such a person eligible for preference who has completed twenty or more years of active military service, no military service shall be counted in determining length of service in respect to such retention rights. In the case of such a person who has completed less than twenty years of such military service, no more than ten years of service under subsection (1) (b) (i) and (ii) shall be counted in determining such length of service for such retention rights.

* * * * * * * * * * *

(7) This section shall be in full force and effect on and after July 1, 1971, and shall grant veterans' preference to all persons who have served in the armed forces of the United States in any declared or undeclared war, conflict, engagement, expedition , or campaign for which a campaign badge has been authorized , and who meet the requirements of service or disability, or both, as provided in this section. This section shall apply to all public employment examinations, except promotional examination, conducted on or after such date, and it shall in all respects be self-executing.

RULE 15
CODE OF CONDUCT

Section 15-5 Employee Conduct
(Effective June 5, 1980; Rule Revision Memo121A)

Every employee in the Career Service shall conscientiously fulfill the duties and responsibilities of his or her position. The conduct of every employee during work hours or at any time while representing the agency, department, or City shall reflect credit on Career Service and the City and County of Denver (City).

Section 15-10 Definition
(Revised June 12, 2006; Rule Revision Memo 10C)

Conviction: The adjudication of a criminal charge through:

A. A guilty plea;

B. The acceptance of a plea bargain;

C. A finding of guilty by a judge or jury;

D. A plea of nolo contendere (no contest);

E. The acceptance of a deferred sentence or deferred judgment; or

F. A plea where a defendant enters a guilty plea without actually admitting guilt (Alford plea).

Section 15-15 Employee Responsibility to Report Charges or Convictions
(Revised June 12, 2006; Rule Revision Memo 10C)

A. Offenses that must be reported:

1. All employees who are charged with or convicted of any felony or misdemeanor, as well as any other offense which involves violence against persons, destruction of property, dishonesty, theft, or the sale or possession of illegal drugs, must report such charges or convictions to their appointing authority.

2. In addition to the requirement set forth in subsection 1, any employee who operates a motor vehicle as part of their job assignment must report any citation for traffic violations, whether received on or off the job (this does not apply to parking violations).

3. Additional reporting requirements may be established by a department or agency consistent with business necessity. Such additional requirements must first be approved by the Office of Human Resources ("OHR"), and approved for legality by the City Attorney's Office.

B. Reporting procedure:

1. The department or agency must post or provide to all employees the name and telephone number of the department or agency designee(s) to whom employees must report charges and convictions as required by this section. If the department or agency does not appoint a designee, employees shall report charges and convictions to the appointing authority.

2. The employee or the employee's representative must report charges and convictions as required by this section as soon as possible, but no later than three (3) calendar days after the occurrence.

C. Record-keeping;

Records of charges or convictions resulting from an employee's reporting shall not be included in the employee's personnel file unless and until disciplinary action has been taken pursuant to Rules 16-60 P. and 16-61.

D. Disciplinary action

Failure to report as required under this section may lead to disciplinary action, up to and including dismissal from employment.

Section 15-20 Ethics

All employees shall comply with the following:

A. The Denver Code of Ethics, D.R.M.C. § 2-51 et seq, as currently codified and any subsequent amendments thereto;

B. Any provisions in the Denver Charter regarding ethical conduct of employees; and,

C. Any stricter Code of Ethics promulgated by an employee's Department or Agency as authorized by D.R.M.C. § 2-51.

A violation of the Denver Code of Ethics, Denver Charter provisions regarding ethical conduct of employees, or any stricter departmental or agency code of ethics shall be grounds for discipline up to and including dismissal from employment.

15-21 Retaliation Prohibited

A. Except as provided in subsection (B) of this section, no Appointing Authority or supervisor shall initiate or administer any disciplinary or adverse employment action against an employee on account of the employee filing an inquiry or other complaint with the Denver Board of Ethics, testifying before the Denver Board of Ethics, or otherwise participating in any proceeding or investigation of the Denver Board of Ethics.

B. Subsection (A) shall not apply to:

1. An employee who files an inquiry or complaint knowing that the underlying information of the inquiry or complaint is false;

2. An employee who files an inquiry or complaint without regard to the truth or falsity of the allegations; or,

3. An employee who has intentionally lied as a witness in any investigation, hearing, or other proceeding of the Denver Board of Ethics.

15-22 Solicitation and Distribution

Employees may not solicit or distribute any non-job-related material of any kind during working time on City property except for designated City programs.

Section 15-30 Political Activities
(Effective June 5, 1980; Rule Revision Memo 121A)

Employees are prohibited from engaging in political activities during working hours. Accordingly, the following practices are prohibited on City premises during work hours:

A. Soliciting monetary political contributions from any officer or employee;

B. Soliciting any contribution of services or resources for political purposes from any officer or employee;

C. Taking any personnel action or making any promise or threat of action with regard to any employee because of the giving or the withholding of a political contribution or service;

D. Engaging in solicitation or politically motivated behavior that is harassing or discriminatory; or

E. Using employer resources for political purposes.

Accordingly, employees are not permitted to spend work time involved in campaign activities. Employees also are prohibited from using City facilities and/or resources in connection with campaign or other political activities. City resources include, but are not limited to, telephones, e-mail, fax machines, interoffice mail, voice mail, photocopiers and office supplies.

Section 15-40 Private Practice of Attorneys
(Effective October 20, 1983; Rule Revision Memo 50B)

15-41 Policy

Private law practice by attorneys of the Department of Law is prohibited, except as herein provided. Attorneys of the Department of Law shall not accept a forwarding fee or a referral fee.

15-42 Scope

These provisions apply to all attorneys of the Department of Law, except special counsel retained pursuant to Section A10.5 of the Charter of the City and County of Denver.

15-43 Pro Bono and Family Practice Exception

Attorneys of the Department of Law may handle legal matters involving pro bono activities or legal matters involving the attorney personally or his or her parents, spouse, child, brother, sister, grandchild, or grandparent subject to all of the following conditions:

A. The attorney receives no compensation for work performed;

B. The attorney has submitted a written request stating the reasons for this exception to the City Attorney and has received written approval from the City Attorney;

C. Any pro bono work shall be done during off-duty hours, while on paid or unpaid leave. (Revised January 1, 2010; Rule Revision Memo 42C)

Section 15-50 Outside Employment
(Effective March 22, 1984; Rule Revision Memo 60B)

Any employee desiring to take outside employment or engage in other business activities must submit a written request to his or her appointing authority before the outside employment or business activities commence. The appointing authority will not approve outside employment that compromises an employee's ability to perform effectively or to accept overtime or travel assignments. Outside employment or business activities shall not be incompatible with an employee's duties, nor shall the outside employment or business activities create an actual or apparent conflict of interest.

Violation of the outside employment policy can lead to corrective action, up to and including dismissal.

Section 15-60 Alcohol Policy

The Career Service Board has a special concern about the use and abuse of alcohol because alcohol can affect an employee's productivity and efficiency; jeopardize the safety of the employee, co-workers, and the public; and harm the reputation of the City and its employees. Employees are subject to pre-employment, post accident and/or random drug and alcohol testing if there is reasonable suspicion that the employee is in violation of this rule. Accordingly, the Career Service Board strictly enforces the following rules:

A. The consumption, possession or storage of alcoholic beverages on City property, except for officially sanctioned functions when the employee is not on duty, is prohibited. When an employee is involved in a workplace accident or where there is reasonable suspicion that an employee is intoxicated while on the job, the employing agency shall require the employee to submit to an alcohol and drug test.

B. The serving of alcohol at City functions must be approved in advance, in writing, by the appropriate appointing authority or designee. The appointing authority is responsible for seeing that events comply with state and local alcohol regulations and are planned with the safety of employees and the public in mind.

C. Off-the-job use of alcohol that adversely affects an employee's job performance or the City, or jeopardizes the safety or property of employees is prohibited. Employees are also prohibited from reporting to work under the influence of alcohol.

D. Employees who drive a motor vehicle as a part of their work can be removed from their position if they are found to have been driving under the influence of alcohol, whether on duty or off duty. The supervisor may initiate a post accident drug and alcohol screening. Employees with a CDL license are subject to random drug and alcohol testing.

E. The City provides an employee assistance program for any employee who wants to seek confidential counseling.

F. A supervisor who has reasonable suspicion that an employee is in violation of this policy may initiate drug and alcohol testing.

G. Violations of this policy can lead to corrective action, up to and including dismissal.

Section 15-70 Drug-Free Workplace Policy

The Career Service Board has a special concern about the use and abuse of illegal drugs (controlled substances) because illegal drugs can affect an employee's productivity and efficiency; jeopardize the safety of the employee, co-workers, and the public; and harm the reputation of the City and its employees. Employees are subject to pre-employment, post accident and/or random drug and alcohol testing if there is reasonable suspicion that the employee is in violation of this rule. Accordingly, the Career Service Board strictly enforces the following rules:

A. The manufacture, distribution, dispensation, possession, sale, or use of a controlled substance is strictly prohibited in all City facilities, on all City property, in any City-owned vehicle, and at any City-sponsored event. When an employee is involved in a workplace accident, or where there is reasonable suspicion that an employee is under the influence of a controlled substance or illegal drug while on the job, the employing agency can require the employee to submit to a drug test.

B. The OHR presents a drug-free awareness education program for all employees at all levels on a periodic basis.

C. Off the job use of controlled substances that adversely affects an employee's job performance or the City, or jeopardizes the safety or property of employees, is prohibited. Employees are prohibited from reporting to work under the influence of illegal drugs or controlled substances.

D. Employees who drive a motor vehicle as a part of their work can be removed from their position if they are found to have been driving under the influence of illegal drugs, whether on duty or off duty. Employees on legally prescribed or over the counter medications that could impair their ability to drive shall notify their immediate supervisor who will take appropriate steps to ensure that there are no risks to the employee or other. The supervisor may initiate a post accident drug and alcohol screening. Employees with a CDL license are subject to random drug and alcohol testing.

E. The City provides an employee assistance program for any employee who wants to seek confidential counseling.

F. A supervisor who has reasonable suspicion that an employee is in violation of this policy may initiate drug and alcohol testing.

G. Violations of this policy can lead to corrective action, up to and including dismissal.

Section 15-80 Electronic Communications Policy

15-81 Policy

To better serve our customers and give our talented workforce the best tools to perform their jobs, the City continues to adopt and make use of new means of communication and information exchange. Employees who have access to one or more forms of electronic media and services, including but not limited to computers, e-mail, telephones, voice mail, fax machines, external electronic bulletin boards, wire services, on-line services, and the internet should use these services for official business.

The City encourages the use of these media and associated services because they can make communication more efficient and effective, and because they are valuable sources of information about customers, technology, and new products and services. However, all employees should remember that electronic media and services provided by the City are City property and their purpose is to facilitate and support City business.

15-82 Prohibited Communications

Electronic media shall not be used for knowingly transmitting, retrieving, or storing any communication that is:

A. Discriminatory or harassing;

B. Derogatory to any individual or group;

C. Obscene;

D. Defamatory or threatening; or

E. Engaged in for any purpose that is illegal or contrary to the City's policies or business interests.

15-83 Personal Use

The City provides electronic media and services primarily for employees' business use. Limited, occasional or incidental use of electronic media for personal, non-business purposes is understandable as long as it is of a reasonable duration and frequency, does not interfere with the employee's performance of job duties, and is not in support of a personal business. Employees are expected to demonstrate a sense of responsibility and not abuse this privilege. Abuse of this privilege may result in corrective action, up to and including dismissal.

15-84 Access to Employee Electronic Communications

Employees cannot have an expectation of privacy with respect to messages or files sent, received, or stored on the City's electronic communication systems, including Internet activity. Any information gathered or communicated using the City's electronic communication systems can be accessed, monitored, and read by authorized employees.

Section 15-90 Employee Organization and Representation

15-91 Membership

A Career Service employee shall have the right to join or refrain from joining any organization of employees. No discrimination shall be exercised against an employee or applicant because such person belongs, or does not belong, to a union or other employee organization.

15-92 Supervisory Employees

Employees in supervisory positions shall not attempt to coerce any employee to join or refrain from joining a union or other employee organization, shall not make any effort to obtain members for a union or any employee association, and shall not accept gratuities, prizes, or other valuable items for influencing any employee to join or refrain from joining a union or employee organization.

15-93 Representation

The representative of an employee, including officers and business agents of unions or other associations to which an employee belongs, shall be given the same rights to speak on behalf of the employee during any type of meeting with the employee's supervisor or manager as would be given the employee.

15-94 Counseling Employees during Working Hours

A representative of an employee organization may visit an employee during working hours if the representative obtains the permission of the employee's immediate supervisor and such visitation does not interfere with the work of the agency.

15-95 Designation of Representative

A. Employees shall identify, in writing, agents to represent them in presenting a grievance or appeal.

B. No employee may be compelled to act as the representative of another employee.

15-96 Representing Employees during Working Hours

If the representative is also a City employee, he or she shall be allowed to take up to a maximum of four (4) hours of approved administrative leave per pay period and use any accrued paid time off, vacation leave or compensatory time, or to take leave without pay to represent employees. Such leave shall not adversely impact the agency or department and must be approved in advance (Revised January 1, 2010; Rule Revision Memo 42 C).

Section 15-100 Harassment and/or Discrimination

15-101 Policy (Revised January 22, 2010; Rule Revision Memo 44C)

It is the policy of the Career Service Board ("Board") that all employees have a right to work in an environment free of discrimination and unlawful harassment. The City maintains a strict policy prohibiting discrimination, sexual harassment and harassment because of race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation, or any other status protected by federal, state, or local laws. All such harassment or discrimination is unlawful. The Board's anti-harassment policy applies to all persons involved in the operation of the City and prohibits unlawful harassment or discrimination by any employee of the City, including supervisors and co-workers. Unlawful harassment in any form, including verbal, physical, and visual conduct, threats, demands, and retaliation is prohibited.

15-102 Types of Harassment (Revised January 22, 2010; Rule Revision Memo 44C)

Unlawful harassment because of race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation, or any other status protected by federal, state, or local laws, includes but is not limited to:

A. Verbal conduct such as epithets, derogatory comments, slurs, unwanted sexual advances, invitations, or comments;

B. Visual conduct such as derogatory posters, photographs, cartoons, drawings, or gestures;

C. Physical conduct such as assault, unwanted touching, blocking normal movement, or interfering with work directed at an employee because of the employee's sex or race or any other protected basis;

D. Threats or demands to submit to sexual requests in order to keep a job or avoid some other loss, and offers of job benefits in return for sexual favors; and

E. Retaliation for having reported or threatened to report harassment.

15-103 Action of Individual Experiencing Unlawful Harassment

Individuals who experience unlawful harassment are urged to:

A. Make it clear that such behavior is offensive to them and request that such behavior be discontinued; and

B. Report such conduct to their supervisor so that the agency may investigate and resolve the problem. If the complaint involves an employee's supervisor or someone in the direct line of supervision, or if the employee for any reason is uncomfortable in dealing with his or her immediate supervisor, the employee may go to another supervisor, to his or her agency human resource representative or directly to the OHR Employee Relations Section.

15-104 Investigation
(Revised June 25, 2013; Rule Revision Memo 5D)

The agency or the OHR will conduct a timely investigation concerning any allegations of harassment or discrimination and will take action, as deemed appropriate, based on the outcome of the investigation. The determination of the investigation regarding the alleged harassment or discrimination will be communicated to the complaining employee as soon as practicable.

15-105 Action

If it is determined that unlawful harassment or discrimination has occurred, the agency will take effective remedial action commensurate with the severity of the offense. Appropriate action will be taken to deter any future harassment.

15-106 Retaliation Prohibited

Retaliation against employees for reporting unlawful harassment or discrimination or assisting the City in the investigation of any complaint is against the law and will not be permitted. Retaliation can include, but is not limited to, such acts as refusing to recommend an employee for a benefit for which he or she qualifies, spreading rumors about the employee, encouraging hostility from co-workers and escalating the harassment. Any employee engaging in retaliation may be subject to corrective action, up to and including dismissal.

Section 15-110 Preventing Violence in the Workplace

Violence, or the threat of violence, will not be tolerated in any City work locations. Any violence or the threat of violence will subject the employee to serious corrective action, up to and including dismissal and possible criminal charges.

The following, though not inclusive, will not be tolerated:

A. Intimidating, threatening or hostile behaviors, physical assault, vandalism, arson, sabotage, unauthorized use of weapons, bringing unauthorized weapons onto City property or other acts of this type clearly inappropriate to the workplace.

B. Jokes or comments regarding violent acts which are reasonably perceived to be a threat of imminent harm.

C. Encouraging others to engage in violent behaviors.

15-111 Reporting

A. In an emergency situation, call 9- 911 or 911. Next, immediately contact the building security, division/department/office manager involved, and agency human resource and safety officers.

B. In a non-emergency situation, if the employee feels that he or she has been subjected to any type of violence or threat of violence, or has observed or has knowledge of any violation of this rule, the employee shall immediately report the incident to his or her supervisor, the agency human resource representative or safety officer, or to the OHR Employee Relations Section.

15-112 Management Responsibility

Management shall investigate any and all complaints and/or incidents of workplace violence and take appropriate actions.

Section 15-120 Open Door Policy

The Career Service Board supports an open door policy. If an employee has a problem or concern that arises in the scope or course of his or her employment, the employee should discuss the concern with his or her immediate supervisor, manager, appointing authority, human resource representative, or a member of the OHR Employee Relations Section. The City will not tolerate retaliation of any kind against any employee who utilizes the open door policy in good faith.

Section 15-130 Reporting Violations

Any alleged violation of this rule should be reported to the appropriate supervisor, manager, agency human resource representative, appointing authority, or the OHR Employee Relations Section.

Any alleged ethics violation covered under this rule should be reported to the appropriate supervisor, manager, appointing authority, human resource representative, or the OHR Employee Relations Section. The employee may also contact the Board of Ethics.

RULE 16
DISCIPLINE
AND DISMISSAL

(Effective March 15, 2006; Rule Revision Memo 5C)

Purpose statement:

The purpose of this rule is to establish a progressive discipline process that is governed by the principles of due process, personal accountability, reasonableness and sound business practice.

Section 16-5 Disclaimer

This Rule 16 pertaining to discipline and dismissal does not create or constitute any contractual rights between or among the City, the Career Service Board ("Board"), the Office of Human Resources ("OHR") and any employee. This Rule 16 may only be modified, rescinded, or revised, in writing, by the Board, which reserves the right to unilaterally modify, rescind, or revise Rule 16 at any time consistent with its rule-making process.

Section 16-10 Service of written notice

Written notices required to be served on an employee under this Rule 16 shall be served on the employee either in person with a certificate of hand delivery, or by first class U.S. mail, with a certificate of mailing to the employee's last known address.

Section 16-20 Purpose of discipline

The purpose of discipline is to correct inappropriate behavior or performance, if possible. The type and severity of discipline depends on the gravity of the offense. The degree of discipline shall be reasonably related to the seriousness of the offense and take into consideration the employee's past record. The appointing authority shall impose the type and amount of discipline he or she believes is needed to correct the situation and achieve the desired behavior or performance.

Section 16-30 Investigatory Leave with Pay

A. An appointing authority may place an employee on investigatory leave with pay pending an investigation of a possible rule violation or failure to meet standards of performance when it is determined by the appointing authority that it is in the best interest of the City. Investigatory leave may be for no more than forty-five (45) calendar days. It may include the period of time required to complete the investigation, as well as any time necessary to conduct a pre-disciplinary meeting and render a decision regarding discipline.

B. If the investigation has not been completed within the forty-five (45) calendar day time period, the appointing authority may request from the OHR Executive Director an extension of time appropriate to complete the investigation and render a decision. The OHR Executive Director may approve a request for an extension for good cause shown. Additional extensions may be granted at the discretion of the OHR Executive Director. The appointing authority shall notify the employee of any extension that is granted by the OHR Executive Director.

C. The appointing authority may require the employee to remain at home and/or be available by telephone; to participate in the investigatory process and/or to perform work during their normal work hours; or to return to work prior to the end of the period of investigatory leave. If an employee is unable to meet the requirements listed above, or chooses to attend to personal business during their normal hours of work, the appointing authority's regular procedures regarding the use of leave shall apply.

Section 16-40 Pre-disciplinary Notification of Contemplation of Discipline or Dismissal and Notice of Pre-disciplinary Meeting

A. Before an employee with career status is suspended, given an involuntary temporary reduction in pay, involuntarily demoted or dismissed, the appointing authority shall hold a pre-disciplinary meeting. A pre-disciplinary meeting is not required for verbal or written reprimands.

B. The purpose of the pre-disciplinary meeting is to allow an employee to:

1. Correct any errors in the department or agency's information or facts upon which it proposes to take disciplinary action; and

2. Tell his or her side of the story and present any mitigating information as to why the disciplinary action should not be taken.

C. Since a pre-disciplinary meeting is not an administrative hearing, witness testimony is not allowed.

D. Employees must be served with written notice seven (7) calendar days prior to the pre-disciplinary meeting. The seven (7) calendar day notice period starts on the day following the date shown on the certificate of mailing or certificate of hand delivery.

E. The written notice of the pre-disciplinary meeting shall contain the following:

1. That disciplinary action is contemplated;

2. The specific conduct or omission committed by the employee which the department or agency believes is in violation of the Career Service Rules ("Rules"), the City Charter, the Denver Revised Municipal Code, Executive Orders or other applicable legal authority;

3. The purpose of the pre-disciplinary meeting as described in Section 16-40 B. of this rule;

4. The date, time and location of the pre-disciplinary meeting; and

5. That the employee is entitled to have a representative of his or her own choosing present at the meeting.

F. The department or agency may approve or deny requests to re-schedule pre-disciplinary meetings, but shall accommodate such requests whenever practicable.

Section 16-50 Progressive Discipline

A. 1. Whenever practicable, discipline shall be progressive. However, any measure of discipline may be used in any given situation as appropriate. A lesser discipline other than dismissal may be imposed where circumstances warrant.

2. Failure to correct behavior or committing additional violations after progressive discipline has been taken may subject the employee to further discipline, up to and including dismissal from employment.

3. This rule should not be interpreted to mean that progressive discipline must be taken before an employee may be dismissed.

B. In order of increasing severity, the disciplinary actions which an appointing authority may take against an employee for violation of the Rules, the City Charter, or the Denver Revised Municipal Code, Executive orders or any other applicable legal authority include:

1. Verbal reprimand.

2. Written reprimand.

3. Suspension without pay, or involuntary temporary reduction of pay.

4. Involuntary demotion, with a reduction in pay pursuant to Rule 9 **PAY ADMINISTRATION**.

5. Dismissal.

Section 16-60 Discipline and Dismissal

The following may be cause for the discipline or dismissal of a Career Service employee:

A. Neglect of duty.

B. Carelessness in performance of duties and responsibilities.

C. 1. Theft, destruction, or neglect in the use of City property or property of any agency or entity having a contract with the City; or

2. Theft of property or materials of any other person while the employee is on duty or on City premises.

D. Unauthorized operation or use of any vehicles, machines, or equipment of the City, or of any entity having a contract with the City, including, but not limited to, the unauthorized use of the internet, e-mail or telephones.

E. Any act of dishonesty, which may include, but is not limited to:

1. Altering or falsifying official records or examinations;

2. Accepting, soliciting, or making a bribe;

3. Lying to superiors or falsifying records with respect to official duties, including work duties, disciplinary actions, or false reporting of work hours.

F. Using official position or authority for personal profit or advantage, including kickbacks.

G. 1. Being under the influence, subject to the effects of, or impaired by alcohol, an illegal drug or a legal drug being used improperly: while on duty; while performing City business; while in a City facility; or while operating a City vehicle or other equipment.

2. Consumption of alcohol, an illegal drug or a legal drug being used improperly: while on duty; in a City facility; on City property; while operating City vehicles or equipment; or while performing City business. The consumption of alcohol at an officially sanctioned function by an off-duty employee is not a violation of this rule.

H. Selling, purchasing, transferring or possessing an illegal drug or a legal drug improperly: while on City property; while in a City facility; while on City equipment or in a City vehicle; or while on duty.

I. Possessing a weapon on City property or a work location without written permission of the employee's appointing authority.

J. Failing to comply with the lawful orders of an authorized supervisor or failing to do assigned work which the employee is capable of performing.

K. Failing to meet established standards of performance including either qualitative or quantitative standards. When citing this subsection, a department or agency must describe the specific standard(s) the employee has failed to meet.

L. Failure to observe written departmental or agency regulations, policies or rules. When citing this subsection, a department or agency must cite the specific regulation, policy or rule the employee has violated.

M. Threatening, fighting with, intimidating, or abusing employees or officers of the City, or any other member of the public, for any reason.

N. 1. Intimidation or retaliation against an individual who has been identified as a witness, party, or representative of any party to any hearing or investigation relating to any disciplinary procedure, or any violation of a city, state, or federal rule, regulation or law, or against an employee who has used the dispute resolution process in good faith.

2. A determination by the Career Service Board or Hearing Officer that the employee has violated the City's "Whistleblower Protection" ordinance (Revised October 2, 2007; Rule Revision Memo 22C).

O. Failure to maintain satisfactory working relationships with co-workers, other City employees, or the public.

P. Conviction of or being charged with a crime. Prior to imposing discipline under this subsection, the department or agency shall follow the guidelines contained in subsection 16-61.

Q. Failure to report charges or convictions of crimes as required by Rule 15 **CODE OF CONDUCT** (Revised June 12, 2006; Rule Revision Memo 10C).

R. Discrimination or harassment of any employee or officer of the City because of race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation, or any other status protected by federal, state, or local laws. This includes making derogatory statements based on race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation, or any other status protected by federal, state, or local laws. Discipline for this prohibited conduct does not have to rise to the level of a violation of any relevant state or federal law before an employee may be disciplined and the imposition of such discipline does not constitute an admission that the City violated any law (Revised January 22, 2010; Rule Revision Memo 44C).

S. Unauthorized absence from work; or abuse of paid time off, sick leave or other types of leave; or violation of any rules relating to any forms of leave defined in Rule 10 **PAID LEAVE** or Rule 11 **UNPAID AND EXTENDED LEAVE** (Revised January 1, 2010; Rule Revision Memo 42C).

T. Reporting to work after the scheduled start time of the shift.

U. Unauthorized performance of work by non-exempt employees outside of the established work schedule.

V. Failure to use safety devices or failure to observe safety regulations which: results in injury to self or others; jeopardizes the safety of self or others; or results in damage or destruction of City property.

W. Engaging in a strike, sabotage, or work slowdown.

X. Divulging confidential or otherwise sensitive information to unauthorized individuals.

Y. Conduct which violates the Rules, the City Charter, the Denver Revised Municipal Code, Executive orders, or any other applicable legal authority.

Z. Conduct prejudicial to the good order and effectiveness of the department or agency, or conduct that brings disrepute on or compromises the integrity of the City.

16-61 Contemplating or Imposing Discipline on an Employee Convicted of or Charged with a Crime (Revised September 9, 2010; Rule Revision Memo 46C)

After notification that an employee has been charged with or convicted of a crime, the appointing authority shall follow the guidelines described below:

A. If an employee has been charged with a crime, before imposing discipline, the department or agency must determine there is a preponderance of evidence demonstrating that the employee engaged in the conduct which forms the factual basis for the crime with which the employee is charged. The department or agency must also consider: the nature and type of the conduct which supports the charge; the nature of the position the employee holds in the City and the relationship of the position to the facts underlying the charge; and the impact of the facts on the employee's ability to perform the position.

B. If an employee has been convicted of a crime, before imposing discipline, the department or agency must consider: the nature and type of crime for which the person has been convicted; the facts underlying the crime; the nature of the position the employee holds in the City and the relationship of the position to the crime; the impact of the facts on the employee's ability to perform the position; and any evidence of rehabilitation.

C. Conviction of a crime or the facts underlying a charged crime may be grounds for any form of discipline outlined in this Rule 16, up to and including dismissal.

Section 16-70 Disciplinary procedures

Appointing authorities may designate agents to act for them in imposing discipline under this Rule 16.

16-71 Verbal reprimand

Verbal reprimands must be accompanied by a notation in the supervisor's file and the agency's file on the employee. The employee shall be notified that a verbal reprimand is being documented in their file.

16-72 Form for Written Reprimand, and Notices of Discipline

A. Written reprimands: Written reprimands shall identify the violations or failures to meet performance standards on the job with sufficient specificity and detail so as to enable the employee to correct his or her behavior and to enhance future performance. Written reprimands shall also contain a notice that the employee may file a grievance on the written reprimand and may also seek mediation in accordance with Rule 18 **DISPUTE RESOLUTION**.

B. Notices of discipline or dismissal: Written notices of suspension, involuntary temporary reduction of pay, involuntary demotion or dismissal shall:

1. Identify the violations or reasons for failure to meet performance standards in detail so as to enable the employee to understand the basis for the discipline. The violation(s) indicated shall be those listed in the notice of contemplation of disciplinary action, except for any charges or violations which are dropped.

2. Contain a reference to the opportunity afforded the employee to tell his or her side of the story in accordance with section 16-40 of this rule and that the information presented at the pre-disciplinary meeting was considered by the department or agency in reaching a determination.

3. Contain a notice that the employee may appeal the suspension, involuntary temporary reduction of pay, involuntary demotion, or dismissal pursuant to Rule 19 APPEALS and that an employee may also seek mediation pursuant to Rule 18 **DISPUTE RESOLUTION**.

C. A written reprimand, notice of suspension, notice of involuntary temporary reduction of pay, notice of involuntary demotion and notice of dismissal shall be sent to the OHR for inclusion in the employee' s personnel file, along with the completed personnel action form, if required.

D. Failure of a supervisor or appointing authority to comply strictly with the provisions of this section 16-70 shall not constitute a basis for reversing a disciplinary action on appeal unless the employee shows that his or her rights were substantially violated by the lack of compliance.

16-73 Disciplinary Action Following Pre-disciplinary Meeting
(Revised November 22, 2013; Rule Revision Memo 6D)

A. Personnel decisions relating to progressive discipline may take into account any relevant prior disciplinary action.

B. A written notice of the disciplinary decision and the reasons for the disciplinary action based on the pre-disciplinary meeting and other pertinent information obtained by the appointing authority shall be served on the employee within fifteen (15) calendar days after the meeting. The notice shall be considered served on the date shown on the certificate of hand delivery or mailing. If the fifteenth day falls on a day the OHR is not open for business, the appointing authority has until the next working day to serve the notice of discipline.

C. However, if an appointing authority presents to the OHR Executive Director documented extenuating circumstances requiring additional time, the OHR Executive Director may extend the date for taking disciplinary action for an additional ten (10) calendar days. A request for an extension of time must be sent to the OHR Executive Director prior to the expiration of the time for taking disciplinary action. If disciplinary action is not taken within the initial time period and a request for extension of time is not timely submitted to the OHR Executive Director, the agency must repeat the steps contained in section 16-40 before disciplinary action may be taken.

D. 1. A verbal reprimand may not be grieved or appealed.

2. An employee may file a grievance of a written reprimand in accordance with Rule 18 **DISPUTE RESOLUTION**. An employee may not appeal a written reprimand to the Career Service Hearings Office.

3. An employee may directly appeal a suspension, involuntary temporary reduction of pay, involuntary demotion or dismissal in accordance with Rule 19 **APPEALS**.

16-74 Guidelines for Involuntary Temporary Reduction of Pay
(Revised October 17, 2010; Rule Revision Memo 47C)

When an involuntary temporary reduction in pay is imposed on an employee, the employee's pay shall not be reduced:

A. More than four and fifty-five hundreds percent (4.55%); or

B. Below the range minimum of the employee's pay range; or

C. For less than seven (7) pay periods; or

D. For more than thirteen (13) pay periods.

Any merit increase or merit payment shall be based on the employee's normal rate of pay, not the employee's temporarily reduced rate of pay.

16-75 Procedure for Dismissal
(Revised May 7, 2012; Rules Revision Memo 62C)

A. An employee holding non-career, trainee or intern probationary, or employment probationary status may be dismissed at any time. Such action may only be appealed on the grounds of alleged discrimination, or when the employee has alleged a violation of the "Whistleblower Protection" ordinance, in accordance with Rule 19 **APPEALS**.

B. The appointing authority shall give an employee written notice of dismissal on or before the employee's last day as a City employee.

C. Dismissed employees are not eligible for future employment in the Career Service for a minimum of five years following such dismissal. The OHR Executive Director shall establish procedures governing how dismissed employees may be placed on eligible lists after the five years have elapsed.

D. Current address: It is the responsibility of each Career Service employee to assure that official personnel records of the City reflect the employee' s current mailing address, current residence address and telephone number at all times.

RULE 18
DISPUTE RESOLUTION

(Effective January 1, 2006; Rule Revision Memo 3C)

Purpose Statement:

The purpose of this rule is to provide a process to resolve workplace issues at the lowest possible level (the level which they occur). The City expects employees and supervisors to use the dispute resolution process in good faith. Retaliation against those who participate in the dispute resolution process in good faith is prohibited.

Section 18-10 Definitions

For the purposes of the Career Service Rules ("Rules"), the following terms apply:

A. Open Door Policy:

An open door policy encourages employees and supervisors/managers to communicate informally and directly.

B. Mediation:

A voluntary process in which a trained mediator assists parties involved in work-related issues to reach a mutually acceptable agreement.

C. Grievance:

An issue raised by a Career Service employee relating to actions/inactions taken by the employee's supervisor/manager that violate the employee's rights under the Rules, the City Charter, ordinances relating to the Career Service, executive orders, or written agency policies. Notwithstanding the above definition, the following may not be grieved:

1. Issues for direct appeal (see Rule 19 **APPEALS**);

2. Complaints of discrimination, harassment or retaliation, because there is a separate process for an employee to follow to bring a complaint involving discrimination, harassment or retaliation (see Rule 15 **CODE OF CONDUCT**);

3. Verbal reprimands;

4. Any aspect of the Performance Enhancement Program other than an employee's performance rating (Revised January 1, 2011; Rule Revision Memo 51C);

5. Bonus or incentive payments, or the lack thereof, or the criteria used by an agency or department to make or not make such payments, or any other aspect of the bonus or incentive program; and

6. The mediation process.

7. The removal of an employee from Senior Command Staff status (as defined in Rule 5 **APPOINTMENTS AND STATUS**). (Effective June 1, 2014; Rule Revision Memo 8D)

D. Supervisor/manager:

When the term "supervisor/manager" is used in this Rule 18 and in Rule 19 **APPEALS**, it shall mean any person has been granted or delegated decision-making authority to take action on behalf of the appointing authority.

Section 18-20 Open Door Policy Process

A. The City encourages employees to informally and directly discuss work-related issues with their direct supervisors.

B. If this does not resolve the concern, then the employee is encouraged to bring the issue to the attention of the employee's manager/director, appointing authority, human resource representative, or a member of the Office of Human Resources ("OHR") Employee Relations Unit.

C. The utilization of the Open Door Policy Process does not suspend the timelines for filing a grievance.

Section 18-30 Mediation Process

If any employee or supervisor/manager has a work-related issue that was not taken to or resolved through the open door process, mediation may be requested.

A. Requesting Mediation:
(Effective May 19, 2008; Rule Revision Memo 27C)

1. An employee, supervisor or manager may request mediation by submitting a Mediation Request Form to the Career Service Mediation Program ("Mediation Program"). The Mediation Program will notify the other parties.

2. Parties are encouraged to participate in mediation. If either party declines to participate in mediation, then the declining party must notify the other party, the appointing authority or designee and the Mediation Program in writing the reason(s) for declining within 10 calendar days of receiving notice of the request for mediation from the Mediation Program. The notification shall include a certificate of service.

3. If all parties agree to mediation, the Mediation Program will assign a mediator.

4. No less than seventy-two (72) hours prior to the date of the mediation all parties must be informed of any representatives attending the proceedings.

B. Protection of Grievance Rights:

1. If a mediation request is submitted within fifteen (15) calendar days of an action or inaction giving rise to a grievance as defined in paragraph 18-10 C, the time to file a grievance is suspended. Should the grievant wish to continue with the grievance process, the grievance must be filed within seven (7) calendar days following the date of the termination of the mediation process.

2. If a mediation request is submitted after the filing of a timely grievance, the time to respond to the grievance is suspended. Should the grievant wish to continue with the grievance process, the agency must respond to the grievance within seven (7) calendar days following the termination of the mediation process.

C. Permanent Adjournment

Permanent adjournment occurs when the mediator issues a written statement to the parties indicating the mediation is permanently adjourned.

D. Termination of the Mediation Process

Termination of the mediation process occurs on either the date of mailing or delivering the notice of permanent adjournment or the written notice of refusal to mediate or the withdrawal of the mediation request.

E. Communications during Mediation not Admissible in Legal Proceedings

All proceedings held pursuant to or taken in conjunction with mediation are considered confidential. This confidentiality shall be specifically acknowledged and agreed to by each party to mediation prior to the commencement of mediation. No testimony concerning discussions had at or during the mediation shall be admissible in any Career Service hearing. The nature and scope of the confidentiality of discussions, documents and other materials presented at the mediation in furtherance thereof shall be governed by the terms of the Colorado Dispute Resolution Act, C.R.S. 13-22-307, Sections 1 through 4 inclusive, as it may be amended.

Section 18-40 Grievance Procedure

If a work-related issue was not taken to or resolved through the open door policy or mediation, and a Career Service employee has a grievance as defined in paragraph 18-10 C of this rule, the following procedures shall apply:

A. Notice to Employees:

The department or agency must post or provide to all employees a copy of this procedure, the name and telephone number of the department or agency designee(s) who may accept grievances, and the acceptable methods of delivery of grievances. If the department or agency fails to appoint a department or agency designee, the appointing authority shall be deemed to be that department or agency's designee.

B. Filing of Grievance:

In order to file a grievance an employee must:

1. Prepare and complete all sections of the official OHR grievance form.

2. Deliver the grievance to the department or agency designee within fifteen (15) calendar days after notification of the action or inaction which gives rise to the grievance. If the grievance is mailed, it must be received within the fifteen (15) calendar days.

3. Employees must use their own personal time when preparing grievances unless they are granted permission by their supervisors to use paid work time.

C. Responding to Grievance:

The department or agency shall consider the grievance and within fifteen (15) calendar days following receipt of the grievance provide the employee a dated, written notice of a decision. The written decision shall contain a certificate of mailing or certificate of hand delivery which indicates the date the decision was mailed or hand delivered to the employee.

D. Computation of Time:

The period of time shall be computed as follows (all time periods are calendar days):

1. The date of notification of the action or inaction shall be the date the employee knew or should have known of the action or inaction.

2. The period of time for filing the grievance starts on the day following the date of notice of the action or inaction.

3. The date for responding to a grievance starts on the day following receipt of the grievance.

4. If the final date for filing or responding to a grievance falls on a day the OHR is not open for business, the final date shall be the next working day (Revised November 22, 2013; Rule Revision Memo 6D).

5. The grievance filing or response period ends at 5:00 p.m. on the final date.

E. Filing with Career Service Hearing Office:

1. Only grievances in conformance with and processed pursuant to the requirements of this Rule 18 may be appealed. Notwithstanding other provisions in these rules, written reprimands and PEPR ratings of "Below expectations" or higher may not be appealed (Revised January 1, 2011; Rule Revision Memo 51C).

2. If the department or agency has not responded within fifteen (15) calendar days of the delivery of the grievance, and the employee wants to pursue the action/inaction giving rise to the grievance further, the employee may appeal within fifteen (15) calendar days to the Career Service Hearing Officer ("Hearing Officer") in accordance with the provisions of Rule 19 **APPEALS**.

3. If the department or agency fails to implement a remedy awarded in the grievance response, the employee must notify the department or agency designee in writing of their intent to file an appeal within seven (7) calendar days following the date the employee knew or should have known of the department or agency's failure to implement the remedy. If the department/agency designee fails to implement the remedy within fifteen (15) calendar days, the employee may appeal within fifteen (15) calendar days to the Hearing Officer in accordance with the provisions of Rule 19 **APPEALS**.

4. If a grievance negatively impacts an employee's pay, benefits or status and is not resolved to the satisfaction of the employee, the employee may appeal within fifteen (15) calendar days to the Hearing Officer in accordance with the provisions of Rule 19 **APPEALS**.

RULE 19
APPEALS
(Effective January 1, 2006; Rule Revision Memo 3C)

Purpose Statement:

The purpose of this rule is to describe the authority of and procedure for appeals before the Career Service Hearing Office ("Hearing Office") and the Career Service Board ("Board").

Section 19-10 Actions Subject to Appeal
(Revised October 2, 2007; Rule Revision Memo 22C)

A. An employee who holds career status may appeal the following:

1. Direct Appeals: An employee or former employee must file an appeal directly with the Hearing Office in order to challenge the following action(s) of an appointing authority:

   a. Dismissal;

   b. Suspension or temporary reduction in pay;

   c. Involuntary demotion with an attendant loss of pay. However, the removal of an employee from Senior Command Staff status (as defined in Rule 5 **APPOINTMENTS AND STATUS**) is not considered an involuntary demotion and is not appealable; (Effective June 1, 2014; Rule Revision Memo 8D);

   d. Disqualification;

   e. Lay-off; or

   f. A retaliatory adverse employment action, as defined by the City's "Whistleblower Protection" ordinance (attached as an appendix).

   It is not necessary that a complaint be filed or an investigation be conducted prior to the filing of a direct appeal where it is alleged that the action being appealed involved discrimination, harassment or retaliation, or violation of the City's "Whistleblower Protection" ordinance.

2. Appeal of Complaint or Grievance: An employee may file an appeal following a formal complaint or grievance only as described below:

   a. Discrimination, Harassment or Retaliation: Any action, that is not subject to a direct appeal, of any supervisor/manager or employee resulting in alleged discrimination, harassment or retaliation because of race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation, or any other status protected by federal, state or local laws may be appealed if, after filing a formal complaint as required by Rule 15 **CODE OF CONDUCT**, the disposition of such complaint has not resulted in stopping or otherwise addressing the alleged discrimination, harassment or retaliation (Revised January 22, 2010; Rule Revision Memo 44C).

   b. Grievance:

      i. Any grievance which results in an alleged violation of the Career Service Rules ("Rules"), the City Charter, ordinances relating to the Career Service, executive orders, or written agency policies and negatively impacts the employee's pay, benefits or status;

      ii. A grievance in which the agency/department failed to respond according to Rule 18 **DISPUTE RESOLUTION**; or

      iii. A grievance in which the agency/department has failed to implement the remedy granted and the grievant has notified the agency of the intent to file an appeal in accordance with Rule 18 **DISPUTE RESOLUTION**.

      Iv. The grievance must be in conformance with and processed pursuant to the requirements of Rule 18 **DISPUTE RESOLUTION**.

      v. Notwithstanding the above provisions, written reprimands may not be appealed.

   c. Grievance of Performance Enhancement Program Reports: Only grievances of Performance Enhancement Program Reports ("PEPRs") with overall ratings of "Failing" may be appealed. The only basis for reversal of the PEPR shall be an express finding that the rating was arbitrary, capricious, and without rational basis or foundation (Revised January 1, 2010; Rule Revision Memo 43C).

3. Bonus or incentive payments or the lack thereof, or the criteria used by an agency or department to make or not make such payments, or any other aspect of the bonus or incentive program may not be appealed.

B. 1. Career Service employees who do not hold career status or former employees who did not hold career status may only file direct appeals when they have alleged that an employment decision subject to direct appeal is discriminatory or when they allege a violation of the "Whistleblower Protection" ordinance.

2. Career Service employees who do not hold career status may appeal the disposition of a complaint alleging discrimination.

Section 19-20 Filing of Appeal

A. Time Limitation:
(Revised October 2, 2007; Rule Revision Memo 22C)

1. a. Appeals claiming violation of the City's "Whistleblower Protection" ordinance shall be filed with the Hearing Office within thirty (30) calendar days of the alleged retaliatory adverse employment action.

b. All other appeals shall be filed with the Hearing Office within fifteen (15) calendar days after the date of notice of the action being appealed.

2. The computation of the period of time for filing an appeal shall be as follows (all time periods are calendar days):

a. The date of notice of the action shall be the date on the certificate of hand-delivery if hand-delivered to the appellant or the date on the certificate of mailing of the notice if sent by U.S. mail or interoffice mail.

b. The period of time for filing the appeal starts on the day following the date of:

i. The alleged retaliatory adverse employment action in the case of an appeal brought under the "Whistleblower Protection" ordinance; or

ii. The notice of the action or date of inaction in all other cases.

c. If the final date of the appeal period falls on a day the Hearing Office is not open for business, the final date for appeal shall be the next working day (Revised November 22, 2013; Rule Revision Memo 6D).

d. The appeal period ends at 5:00 p.m. (close of business) on the final date for appeal.

B. Form of Appeal:

1. Every appeal shall be on the form prescribed by the Hearing Office and shall include the name and address of the employee filing the appeal, the action which is the subject of the appeal, the reason for the appeal, and a statement of the remedy sought.

2. For any appeal filed pursuant to 19-10 A.2.a., the employee must identify the alleged discrimination, harassment or retaliation that has not been stopped or otherwise addressed. An appeal may be dismissed if the employee fails to comply.

3. For any appeal filed pursuant to 19-10 A.2.b.i., the employee must identify the alleged violation of the Rules, the City Charter, ordinances relating to the Career Service, executive orders or written agency policies, and how the employee's pay, benefits or status were impacted. An appeal shall be dismissed if the appellant fails to comply.

4. For any appeal filed pursuant to 19-10 A.2.c., the employee must identify why the employee asserts the "Failing" PEPR was arbitrary, capricious and without rational basis or foundation. An appeal shall be dismissed if the employee fails to comply (Revised January 1, 2010; Rule Revision Memo 43C).

Section 19-25 Alternative Dispute Resolution Available

A. A party may request mediation pursuant to Rule 18 **DISPUTE RESOLUTION** anytime during the appeal process. Requesting mediation shall not suspend the time limitation for filing an appeal. Scheduling the matter for mediation will not affect the appeal process or the appeal hearing date, except by agreement of the parties. If the parties mutually determine that an extension of time or a stay of the appeal is necessary to facilitate mediation, the parties shall file a motion for such relief with the Hearing Office.

B. All mediation proceedings are considered confidential. This confidentiality shall be specifically acknowledged and agreed to by each party to mediation prior to the commencement of mediation. No testimony concerning discussions had at or during the mediation shall be admissible in any Career Service hearing. The nature and scope of the confidentiality of discussions, documents and other materials presented at the mediation shall be governed by the terms of the Colorado Dispute Resolution Act, C.R.S. 13-22-307, Sections 1 through 4 inclusive, as it may be amended.

Section 19-30 Hearing Officers

A. Powers and Duties:

The Hearing Officers shall have authority to hear and decide all appeals permitted by this Rule 19; and shall perform the functions necessary to implement and maintain a fair and efficient process for appeals.

B. Hours of Operation:

The Hearing Officers shall keep the Hearing Office open for business from 8:00 a.m. to 5:00 p.m., Monday through Friday of each week, holidays excepted, unless good cause warrants a temporary or permanent change.

Section 19-35 Service defined

Pleadings, motions, statements, petitions, notices, and any other documents required to be served on a party under this Rule 19 shall be served either in person with a certificate of hand delivery, or by first class U.S. mail, with a certificate of mailing to the party's last known address.

Section 19-40 Pre-hearing Procedure

19-41 Representation of Parties

A. All parties wishing to be represented shall promptly file a designation of representative signed by the representative.

B. Parties may:

1. Represent themselves;

2. Be represented by an attorney; or

3. Be represented by a non-attorney as authorized by law and the Hearing Officer.

19-42 Hearings

A. Date for hearing:

After an appeal is filed, the Hearing Officer shall either:

1. Set a hearing date that is no more than sixty (60) calendar days after the date of filing of the appeal, unless a stipulated motion to waive the time limit is granted for good cause shown; or

2. Issue an order to show cause to determine if the Hearing Officer has jurisdiction over the appeal. If the Hearing Officer subsequently determines that jurisdiction exists, the hearing date shall be set no more than sixty (60) calendar days after the date the parties receive notice of the decision.

B. Length of hearing:

A hearing on an appeal shall be limited to one day, unless a request for a longer hearing is granted for good cause shown.

C. Continuances and Stays:

The Hearing Officer may grant a continuance or stay for good cause shown.

19-43 Motions

A. All pre-hearing motions shall be in writing and copies shall be served on all parties to the appeal, or their representatives, if any. Such service shall be made on the same date the motion is filed with the Hearing Office. Motions must be supported by a showing of good cause.

B. Rulings by the Hearing Officer on motions regarding jurisdiction may be appealed immediately to the Board subject to the provisions of this Rule 19 governing interlocutory petitions to the Board. The appeal before the Hearing Office shall be stayed pending resolution of the interlocutory petition.

19-44 Pre-hearing Statements

A. Within twenty (20) calendar days after the date an appeal is filed, the parties shall file their pre-hearing statements listing witnesses (including a summary of their proposed testimony), exhibits relevant to the issues being appealed, and offered stipulations. The parties may file an amended pre-hearing statement within ten (10) calendar days of the hearing date listing final witnesses (including a summary of their proposed testimony), final exhibits relevant to the issues being appealed, and offered stipulations. Copies of any pre-hearing statements filed with the Hearing Office shall be served on all parties to the appeal, or their representatives, if any.

B. Failure to file pre-hearing statement:

1. An employee's failure to file a pre-hearing statement may be grounds for dismissal of their appeal as abandoned unless good cause is shown for that failure.

2. A department or agency's failure to file a pre-hearing statement may subject the department or agency to evidentiary sanctions unless good cause is shown for that failure.

C. Evidence that was not disclosed by a party in any of their pre-hearing statements shall not be introduced at hearing absent a showing of good cause.

19-45 Discovery and Subpoenas

A. The parties are encouraged to engage in informal discovery as soon as an appeal is filed. The parties may move for formal discovery by submission of the proposed requests to the Hearing Officer when informal discovery has failed. Discovery shall be narrowly limited to the issues on appeal, and shall not exceed ten (10) requests for production of documents, and five (5) interrogatories absent good cause for an exception to these limitations. The party producing discovery may condition their production on the payment of reasonable copying costs. The Hearing Officer may waive or reduce the payment of such costs for good cause shown.

B. Subpoenas for the production of documents from non-parties to the appeal (including other City department or agencies that are not parties) which are relevant to the appeal may be issued by the Hearing Officer, upon the motion of either party, supported by good cause. Such motions must be filed no less than twenty (20) calendar days prior to the hearing date. The Hearing Officer shall require that the costs of production be paid by the party requesting the documents.

C. Subpoenas to compel the attendance of witnesses at hearings whose testimony is relevant to the appeal, may be issued by the Hearing Officer upon the motion of either party, supported by good cause. Such subpoenas shall be served no less than five (5) calendar days prior to hearing.

D. The Hearing Officer may require witnesses, who have been subpoenaed to appear at a hearing, to answer written interrogatories or to appear at a deposition if it is not feasible for them to be available for hearing. The Hearing Officer shall require that the costs of such a deposition be paid by the party requesting the witness testimony.

E. Any party, non-party, or witness, or a representative thereof may move to quash or modify a subpoena if it is unreasonable and oppressive.

19-46 Pre-hearing Conference

The Hearing Officer may, at the request of the parties or on the Hearing Officer's own initiative, schedule a pre-hearing conference in order to define the issues for hearing, encourage alternate dispute resolution, resolve pending motions, or otherwise assist the parties in obtaining a fair and efficient resolution of the appeal.

19-47 Interlocutory appeals

Rulings by the Hearing Officer regarding jurisdiction may be appealed immediately to the Board subject to the provisions of this Rule 19 governing interlocutory petitions to the Board. The appeal before the Hearing Office shall be stayed pending resolution of the interlocutory petition.

Section 19-50 Appeal Hearing

A. The Hearing Officer shall conduct the hearing in as informal a manner as is consistent with a fair and efficient presentation of the appeal. Strict rules of evidence shall not apply.

B. The parties may present evidence and witnesses, and may cross-examine the other party's witnesses.

C. Testimony shall be given under oath or affirmation.

D. The Hearing Officer shall rule on all objections, and may examine witnesses when necessary to establish a complete record.

19-51 Witnesses

A. Appointing authorities shall make available witnesses who have been subpoenaed by the Hearing Officer and are City employees.

B. All parties and witnesses who are City employees shall be compensated at their regular straight-time rate of pay for all hours spent at a hearing during their regular working hours, as if they were at work at their regular duty station. For any hours spent at a hearing outside of their regular working hours, there shall be no compensation.

C. The parties, representatives of the parties and witnesses shall not be subject to intimidation, interference, coercion, discrimination, or reprisal as a result of being a party or a witness in a hearing conducted by the Hearing Officer.

19-52 Failure to Appear

In cases where a party fails to appear at the hearing, the Hearing Officer may continue the hearing, dismiss the appeal or rule on the available evidence of record.

19-53 Record of Hearing

A record of the hearing shall be made. The record may be made by court reporter or any recording device approved by the Hearing Officer.

19-54 Public or Private Hearing

A. The hearing shall be open to the public except that the Hearing Officer may, at the request of an interested party, conduct the hearing in private, if it serves the interests of the parties and the public.

B. Witnesses shall be sequestered at the request of either party or when the Hearing Officer decides sequestration is appropriate.

19-55 Decision of Hearing Officer
(Revised August 29, 2008; Rule Revision Memo 30C)

The Hearing Officer shall issue a decision in writing affirming, modifying, or reversing the action, which gave rise to the appeal within forty-five (45) calendar days after the date on which the record is closed, or as soon as practicable thereafter. This decision shall contain findings on each issue necessary to resolve the appeal and shall be binding upon all parties.

Section 19-60 Petition for Review to the Board of a Hearing Officer's Decision

19-61 Grounds for Petition for Review

A party may petition that the Board review a Hearing Officer's decision only on the following grounds:

A. New evidence: New and material evidence is available that was not available when the appeal was heard by the Hearing Officer;

B. Erroneous rules interpretation: The Hearing Officer's decision involves an erroneous interpretation of the Rules;

C. Policy-setting precedent: The Hearing Officer's decision is of a precedential nature involving policy considerations that may have effect beyond the appeal at hand;

D. Insufficient evidence: The Hearing Officer's decision is not supported by the evidence. The Board may only reverse a decision on this ground if the Hearing Officer's decision is clearly erroneous; or

E. Lack of jurisdiction: The Hearing Officer does not have jurisdiction over the appeal. A party may file an interlocutory appeal on this ground and if such interlocutory appeal is filed, the appeal before the Hearing Officer shall be stayed until the Board decides the interlocutory appeal.

19-62 Filing of Petition for Review

A petition for review shall be filed with the Board at the Office of Human Resources ("OHR") Executive Director's office within fifteen (15) calendar days after the date of the mailing of the Hearing Officer's decision. If the due date falls on a day that the OHR is not open for business, the due date shall be construed as the next business day. The request shall be in writing, and shall contain the following:

A. The name and number of the appeal;

B. The names and addresses of all parties to the appeal and of their attorneys or representatives;

C. The date of the Hearing Officer's decision;

D. A brief statement of the grounds for the petition for review from subsection 19-61, including the factual or legal basis which the party asserts exist to support each ground of the petition. If the party is asserting "new evidence," the party shall include an affidavit stating the nature of the new evidence and the reason(s) for its unavailability at hearing;

E. The action the petitioner wants the Board to take;

F. A copy of the Hearing Officer's decision; and

G. Proof of service on all parties. Copies of the petition for review and all other documents filed with the Board shall be served on the Hearing Office, and all parties, or their representatives, if any.

19-63 Response to Petition for Review by the Board

A. The other party to the appeal may file a cross-petition for review which shall comply with subsection 19-62, except that it shall be filed within ten (10) calendar days after service of the petition for review.

B. If the other party does not file a cross-petition for review, no response is required until the answer brief is due.

C. If both parties file a petition for review by the Board, the employee shall be deemed the "petitioner" and the department or agency shall be deemed the "cross-petitioner."

19-64 Hearing Transcript and Record

A. Within twenty (20) calendar days after filing the petition for review, the petitioner shall file with the Hearing Office a request for the transcript of the hearing, or such portions of the hearing, if any, that the petitioner deems necessary for consideration of its petition by the Board. The petitioner shall file a copy of the request for the transcript with the Board and serve a copy on the other party on the same day that the petitioner files the request with the Hearing Office.

B. If the petitioner does not request any portion of the transcript, the petitioner shall, within twenty (20) calendar days after filing the petition for review, file with the Board and serve on the other party a notice that no transcript is being requested from the Hearing Office.

C. Within ten (10) calendar days after the filing of a request for the transcript of the hearing or the filing of a notice that no transcript is being requested, the respondent (or cross-petitioner) may file a request for additional portions of the transcript not included in the petitioner's request with the Hearing Office. The respondent (or cross-petitioner) shall file a copy of the request for the transcript with the Board and serve a copy on the petitioner on the same day that the respondent (or cross-petitioner) files the request with the Hearing Office.

D. The cost of preparing the transcript or portions thereof shall be advanced by the party making the request.

E. Once the transcripts are prepared, the Hearing Office shall file notice with the Board that the transcripts are complete, and shall provide the parties with copies of the notice and copies of the requested transcripts, upon the payment of reasonable copy costs. The Hearing Office shall include a date of service with its notice.

F. The parties may review the record at the Hearing Office and request copies of portions of the record necessary for preparation of a brief. The Hearing Office may charge reasonable copy costs.

19-65 Briefs

A. Petitioner's Brief: An original and five (5) copies of the petitioner's brief shall be filed by the petitioner with the Board within twenty (20) calendar days after the date of service by the Hearing Office of notice that the transcript is complete. If neither party requests transcripts of the hearing, the petitioner's brief shall be filed with the Board within thirty-five (35) calendar days after the date of service by the petitioner of notice that no transcript is being requested from the Hearing Office. The petitioner's brief shall separately address each ground for the petition; shall be supported by appropriate citations to the transcript and the record if necessary; shall include a brief statement of the relief sought by the petitioner; and shall include a copy of any portions of the transcript and record necessary for resolution of the petition. The petitioner's brief shall be served on the other party on the same date that it is filed with the Board.

B. Answer Brief: An original and five (5) copies of the answer brief shall be filed by the other party with the Board within twenty (20) calendar days after the date of service of the petitioner's brief. The answer brief shall contain a response to each argument contained in the petitioner's brief and, if the answer brief cites to additional portions of the transcript or record, such additional portions shall be included with the answer brief. If the other party is also a cross-petitioner, the answer brief shall also separately address each ground for the cross-petition; shall be supported by appropriate citations to the transcript and the record if necessary; shall include a brief statement of the relief sought by the cross-petitioner; and shall include a copy of any portions of the transcript and record necessary for resolution of the cross-petition. The answer brief shall be served on the petitioner on the same date that it is filed with the Board.

C. Reply Briefs: The parties are expected to fully address all issues in the petitioner's brief and answer brief. If, however, a cross-petition is filed and arguments supporting the cross-petition are included in the answer brief, the petitioner may file a reply brief which shall contain only a response to each argument advanced in support of the cross-petition and contained in the cross-petitioner's answer brief. An original and five (5) copies of the reply brief shall be filed by the petitioner with the Board within fifteen (15) calendar days after the date of service of the answer brief. If the reply brief cites to additional portions of the transcript or record, such additional portions shall be included with the reply brief. No further briefs shall be submitted by either party unless requested by the Board.

D. Extensions of Time to File Brief: If either party needs an extension of time to file a brief, the party may file a motion with the Board supported by good cause and the OHR Executive Director may, on behalf of the Board, grant an extension of up to ten (10) calendar days. The OHR Executive Director shall notify the parties in writing of any extensions granted.

E. Oral Argument: If either party believes that oral argument before the Board is necessary for resolution of the issues, the party shall include in the petitioner's brief or the answer brief a request for oral argument, and such request shall specifically indicate why oral argument is requested. The Board may grant a party's request for oral argument or may order oral argument when it determines oral argument is necessary.

19-66 Stay of Hearing Officer's Decision

A. When an interlocutory petition based on jurisdiction has been filed, the appeal before the Hearing Officer shall be automatically stayed.

B. When any other petition or cross-petition is filed, the Board may stay a Hearing Officer's decision if the party requesting a stay has filed a Request for Stay indicating the irreparable harm, injury or loss which would occur if the stay is not granted. A party may file a response or the Board may request a response to a Request for Stay. However, the Board may rule on a Request for Stay prior to the filing of a response.

C. Any stay permitted by this Rule shall expire at the time the Board issues a final decision on the petition and cross-petition, if any.

Section 19-70 Decision by the Board

Upon submission of the briefs and upon the conclusion of oral argument, if any, the Board shall Issue a decision in writing, affirming, modifying, or reversing the Hearing Officer's decision. The Board may also remand part or all of the appeal for further action by the Hearing Officer. The Board shall issue its decision within sixty (60) calendar days after the date on which the final brief is submitted or oral argument is held, whichever is later. The binding effect of a decision is not affected by late issuance. The decision shall contain findings on each issue necessary to resolve the petition and cross-petition if any and shall be binding upon all parties. A decision of the Board shall be concurred in by at least three (3) members of the Board, whose names shall be included in the decision. The decision rendered by the Board shall constitute the final decision for purpose of requesting judicial review.

Section 19-80 Enforcement of Subpoenas

Subpoenas issued by the Hearing Officers or the Board shall be enforced in accordance with the City Charter.

APPENDIX 19.A.

RELEVANT PROVISIONS OF THE WHISTLEBLOWER PROTECTION ORDINANCE SECTION 2-100 OF THE DENVER REVISED MUNICIPAL CODE

Sec. 2-106. Legislative Declaration

The city council hereby determines and declares that employees of the City and County of Denver should never suffer retaliation from their supervisors or appointing authorities for communicating information about illegal activities, unethical practices or other forms of official misconduct experienced or witnessed by employees in the scope of their employment. The interests of the City and County and Denver and the larger interests of the citizens of Denver are served by encouraging all employees to speak out fully and frankly on any official misconduct which comes to their attention without fear of retaliation. Therefore, the purpose of this Article VII is to eliminate the possibility or the threat of any adverse employment action that may be taken against any City and County employee for reporting such information to appropriate reporting authorities.

Sec. 2-107. Definitions

As used in this Article VII:

(a) "Appropriate reporting authority" means any officer, board or commission, or other person or entity vested with legal authority to receive, investigate, or act upon reports of official misconduct by officers and employees of the City and County, including, by way of example:

(1) The mayor and members of the mayor's cabinet;

(2) The city council, any committee of the city council, and individual members of the city council;

(3) The auditor and the audit committee;

(4) The board of ethics;

(5) The district attorney and other law enforcement agencies; or

(6) The appointing authority for the officer or employee who is alleged to have engaged in the official misconduct that is the subject of the report.

(b) "Adverse employment action" means any direct or indirect form of employment discipline or penalty, including, but not limited to, dismissal, suspension, demotion, transfer, reassignment, official reprimand, adverse performance evaluation, withholding of work, denial of any compensation or benefit, lay-off, or threat of any such discipline or penalty.

(c) "Employee" means any employee of the City and County of Denver within the meaning of § 1.2.11 of the charter.

(d) "Official misconduct" means any act or omission that is committed, intended, or planned by any officer or employee of the City and County that constitutes:

(1) A violation of law;

(2) A violation of any applicable rule, regulation or executive order;

(3) A violation of the code of ethics as codified in article IV of this chapter 2, or any other applicable ethical rules and standards;

(4) The misuse, misallocation, mismanagement or waste of any city funds or other city assets; or

(5) An abuse of official authority.

(e) "Supervisor" means any person who is authorized to recommend or to impose any adverse employment action upon an employee.

Sec. 2-108. Retaliation prohibited.

(a) Except as provided in subsection (b) of this section, no supervisor shall impose or threaten to impose any adverse employment action upon an employee on account of the employee's disclosure of information about any official misconduct to any person.

(b) The protections afforded by this Article VII shall not apply to any employee:

(1) Who discloses information that the employee knows to be false or who discloses information without regard for the truth or falsity thereof;
(2) Who discloses information in a manner prohibited by law including, by way of example, information that is prescribed as being confidential by law; or
(3) Who otherwise discloses information in bad faith.

(c) It shall be the obligation of an employee who wishes to disclose information under the protection of this Article VII to make a good faith effort to provide to an appropriate reporting authority the information to be disclosed prior to the time of its disclosure. The protection of this Article VII shall not extend to reports of official misconduct that are made anonymously.

Sec. 2-109. Remedies.

(a) Employees in the career service. Any employee in the career service may file a complaint with the career service board or its designated hearing officer alleging a violation of section 2-108 within thirty (30) days of the alleged retaliatory adverse employment action. The complaint shall be processed in accordance with the rules of the board governing employee appeals; provided, however, that the employee shall not be required to pursue a complaint or grievance within the employee's department or agency prior to appealing the alleged retaliatory adverse employment action to the board or its designated hearing officer. In addition to the foregoing procedure, any employee who is otherwise contesting a disciplinary action before the board or its designated hearing officer in accordance with the rules of the board may defend against the disciplinary action upon a showing by the employee that the disciplinary action constitutes a violation of section 2-108. In either event, if the board or the designated hearing officer finds that a violation of section 2-108 has occurred, the board or the hearing officer shall order appropriate relief on behalf of the employee including, but not limited to, reinstatement, back pay, restoration of all benefits and seniority rights, and the expunging of the records of any retaliatory adverse employment action made in violation of section 2-108.

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(d) Sanction against supervisors. Upon a determination by the career service board or its designated hearing officer, the civil service commission or its designated hearing officer, or an appointing authority that a violation of section 2-108 has occurred, any supervisor who committed the violation shall be subject to appropriate disciplinary action by the supervisor's appointing authority, up to and including termination from employment.

Sec. 2-110. Posting Required.

All departments, agencies and other appointing authorities of the City and County of Denver shall post and maintain, in one or more prominent locations accessible to employees of the department or agency, a notice of the rights and protections afforded to employees by this Article VII. The notice shall be in a form approved by the city attorney.

This Appendix is provided for informational purposes and is not considered a part of the Rules.