

**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; Rules Revision Memo 19C)

Section 5-20 Medical examinations following a conditional offer of employment

- A. All classes in the career service shall be allocated to a medical group by the Personnel Director with approval of the Career Service Board. The medical groups are as follows:
 - 1. Medical Group 1: Positions which demand a very high degree of physical fitness and health.
 - 2. Medical Group 2: Positions which demand considerable labor and exertion or in which safety considerations mandate a high degree of physical fitness and health.
 - 3. Medical Group 3: Positions which require little physical labor or exertion and an average degree of health.
- B. Applicants who are offered positions which are classified as group 1 or 2 will be required to submit to a medical examination after receiving a conditional offer of employment. The examination shall be administered by the occupational health and safety clinic at Denver Health Medical Center. The examination shall be completed after a conditional offer of employment has been given to the applicant and before the first day of work.
- C. Applicants who are offered positions which are classified as group 3 will not be required to submit to a post employment offer medical exam.

5-21 Adoption of Medical Standards

Medical standards for each medical group shall be proposed by Denver Health Medical Center. Proposed standards adopted by the Career Service Board shall be used as a guide in determining medical fitness. The Personnel Director may waive these standards at the request of an appointing authority when the Personnel Director determines that it is in the best interest of the City and County of Denver and when such employment will not constitute a hazard to the prospective employee's health or create a liability to the City.

Section 5-30 Types of Positions

(Effective November 1, 1980; Rules 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 without pay, 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; Rules Revision Memo 19C)

Section 5-40 Employee Status

(Effective November 1, 1980; Rules Rev. Memo 127A; revised effective April 1, 2006; Rules 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.

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 layoff.
 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.

Section 5-50 Probation

(Effective 11/1/80; Rules Rev. No. 127A; rev'd effective 4/1/06; Rules Rev. No. 6C)

5-51 Purpose (Effective 12/2/81; Rules Rev. No. 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 7/1/91; Rules Rev. No. 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 1/21/93; Rules Rev. No. 163B)
- B. Extension of probation:
 - 1. At the request of an appointing authority, the Personnel Director may approve the extension of an employment and promotional probationary period up to six (6) months if the Personnel Director considers the best interests of the City to be served thereby. (Effective 12/3/81; Rules Rev. No. 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 extended until the training programs have been completed and documentation evidencing such completion has been provided to CSA. This subsection shall not affect a department or agency's ability to end probation at any time.

- 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 7/1/91; Rules Rev. No. 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 Career Service Authority ("CSA"). If the employee fails to pass probation, a letter notifying the employee, copied to the CSA, 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 CSA 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; Rules Revision Memo 127A)

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

An employee in employment probationary status:

1. May be terminated or demoted at any time;
2. 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;
3. Is entitled to accumulate leave in accordance with Rule 11 LEAVE, except that such employee shall not be entitled to take vacation leave until completion of probation or completion of six (6) months of continuous service, whichever comes first;
4. Is entitled to disability leave in accordance with Rule 11 LEAVE;
5. 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

1. May be disciplined or dismissed only for cause, in accordance with Rule 16, DISCIPLINE.
2. May file a grievance or appeal for any reason specified in Rule 18 DISPUTE RESOLUTION or Rule 19 APPEALS;
3. Is entitled to the full benefit of leave provisions in accordance with Rule 11 LEAVE;
4. May earn merit increases in accordance with Rule 9 PAY ADMINISTRATION; (Effective September 1, 1989; Rules Revision Memo 129B)
5. Is entitled to lay-off protection specified in Rule 14 SEPARATIONS OTHER THAN DISMISSAL except for employees appointed to limited positions after January 16, 2004; (Revised March 19, 2004; Rules Revision Memo 247B)
6. May receive reinstatement appointments as provided in Career Service Rule 14-40, reassignments, transfer appointments or demotion appointments without serving a new probationary period; (Revised March 19, 2004; Rules Revision Memo 247B)
7. May have continuous service credits earned prior to lay-off restored if such employee (a) is reinstated within two (2) years immediately following the lay-off; or (b) is reemployed within two (2) years after being laid off and is still on the reinstatement list. (Effective December 18, 1980; Rules Revision Memo 01, Series B)
8. Is entitled to such other rights, privileges and benefits as set forth in these Rules.

5-63 Employees in Promotional Probationary Status

(Revised effective October 2, 2007; Rules 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 effective October 2, 2007; Rules Revision Memo 22C)

An employee in non-career status:

1. May be terminated at any time;
2. 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;
3. May promote to a higher level class if qualified in accordance with these rules;
4. May be re-assigned or transferred to another position in a class with the same job rate; and
5. May demote to another position, if qualified.

5-65 Employees in Trainee or Intern Probationary Status:

(Revised effective October 2, 2007; Rules Revision Memo 22C)

An employee in trainee or intern probationary status:

1. May be terminated or demoted at any time;
2. 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;
3. Is entitled to accumulate and take leave in accordance with Rule 11 LEAVE;
4. Is entitled to disability leave in accordance with Rule 11 LEAVE;
5. May promote to a higher level class if qualified in accordance with these rules;
6. May be re-assigned or transferred to another position in a class with the same job rate; and
7. May demote to another position, if qualified.

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)

- A. Employment appointment: An appointment made as a result of certification of an employment list in accordance with Rule 3 SELECTION.
- 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 certification from a re-instatement list in accordance with Rule 3 SELECTION.
- 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 entry rate as the former classification or a lower entry rate, 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 Personnel 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.

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 entry rate of the pay range for the new classification is higher than the entry rate of the pay range for the employee's current classification.
- 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 certification from a re-instatement list in accordance with Rule 3 SELECTION.
- C. Re-promotional appointments: A promotional appointment of an employee to a different 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 entry rate or an intervening entry rate 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 Personnel 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.
- D. Transfer appointment: An appointment of an employee from a position in one classification to a different position in a classification with the same entry rate:
1. In a different agency; or
 2. In a different classification in the same agency.
- E. Demotion appointment: An appointment of an employee to a position in a classification in which the entry rate of the pay grade of the new classification is lower than the entry rate of the classification previously held. However, this transaction shall not apply when an employee returns from promotional probation.
- 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, Rules Revision Memo 25B).
- G. End of training or internship probationary period:
1. The department or agency shall report to the CSA, 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 Career Service Personnel 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 CSA that the trainee or intern has successfully completed the trainee or intern probationary period, the department or agency may request that CSA conduct a recruitment so that the trainee or intern may compete for the position.

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 SELECTION 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 layoff or anticipation of layoff.
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)

- 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 Paragraph 14-45 b) Demotion.
 2. In lieu of separation for disqualification: When an employee is not performing satisfactorily, in accordance with Subsection 14-21 Disqualification, General.
 3. 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.
 4. 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 Paragraph 14-45 F) Voluntary action in lieu of lay-off.
- 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 Career Service Authority before the demotion is effective.
- C. Career Service Authority approval: Voluntary demotions must satisfy the requirements of Rule 3 SELECTION. For all other types of demotions, the Career Service Authority 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 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 Reassignment of Immediately Family Members
(Effective January 1, 1982; Rules 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 immediately 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 5-75 Limitations on Appointment or Reassignment of Immediately Family Members, subject to the following conditions:
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 Reassignment
(Effective November 1, 1980; Rules Revision Memo 127A)

5-81 General

An appointing authority may assign or reassign 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, Rules Revision Memo 184B).

5-82 Effect on Status (Eff. Date: 7-11-94)

A reassignment in no way affects the status of the employee involved.

5-83 Reassignment to a Part-Time Position or to a Limited Position (Eff. Date: 7-11-94)

- A. To a part-time position: An employee may be reassigned from a full-time position to a part-time position only if the employee consents to the reassignment.
- B. To a limited position: An employee may be reassigned from an unlimited position to a limited position only if:
 - 1. the employee consents to the reassignment, or
 - 2. the employee is granted a leave without pay from the original position for the duration of the reassignment.

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

It is the policy of the Career Service Authority 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 agency or department.

C. Qualification Standards and Direct Threat

It is not a violation of this policy for CSA to apply qualification standards, tests, or selection criteria or for an agency or department 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 individuals 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 reassignment, 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 agency or department has actual or constructive notice that an employee may have a disability for which the employee needs reasonable accommodation, the agency or department shall initiate an interactive process within twenty (20) calendar days or a longer period, if approved by the CSA Director or designee and reasonable under the circumstances. The interactive process shall be a flexible, informal process that involves both the agency or department, the employee and the Career Service Authority 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 Career Service Authority 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 Career Service Authority, 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 Career

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Service Authority, 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 position.
4. If the employee is determined to be disabled as defined in this rule, the Career Service Authority, 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. Reassignment

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 Career Service Authority, with the assistance of the department or agency, shall explore reassignment 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 reassignment 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 Career Service Authority. The employee does not need to be the best-qualified individual for the position in order to obtain it as a reassignment.

The Career Service Authority first shall attempt to identify a vacant position that is equivalent in terms of pay and benefits within the employee's agency or department. If none exist, the Career Service Authority shall attempt to identify a vacant position that is equivalent in terms of pay and benefits within another agency or department. If no equivalent position exists, the Career Service Authority shall attempt to identify a position of lower pay and benefits, first in the employee's agency or department, and then in another agency or department. The Career Service Authority

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 reassignment position. However, the Career Service Authority designee is free to choose the reassignment position to be offered to the employee. An agency or department to which a disabled employee is being reassigned is required to cooperate with the reassignment process coordinated by the Career Service Authority but may file a request to the CSA Director to review the reassignment placement within five (5) calendar days of the reassignment notice if the agency or department 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 reassigned to a vacant position, the employee shall be provided any reasonable accommodation necessary for the employee to perform the essential functions of the reassignment position.

From the date that the employee expresses an interest in continued employment with the City, the Career Service Authority 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 reassignment position and request the Career Service Authority 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 Career Service Authority shall not be required to continue looking for suitable reassignment 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 reassigned, the Career Service Authority 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 Career Service Authority designee shall perform a job analysis of the vacant position.

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4. If a disabled employee is reassigned 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 Career Service Authority shall attempt to identify another vacant position to which the disabled employee can be reassigned for a period not to exceed three (3) months. If an employee originally took a demotion, Career Service Authority 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 reassignment to a job on the basis that the individual poses a direct threat to the health and safety of the employee or others, the Career Service Authority shall perform an individualized assessment of that individual's ability to perform safely the essential functions of the reassignment 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 Career Service Authority 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 Career Service Authority 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 Career Service Authority 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 Career Service Authority shall maintain records of all factors considered in reaching its final decision.

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7. Reassignment 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. Reassignment is only available to current employees and is not available to applicants.
9. Reassignment 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 reassigned employee in the duties of the position reassigned, as it would do with any new employee.
11. A reassignment 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 reassignment. (Effective April 1, 2006; Rules Revision Memo 6C)
12. Disabled Classified Service employees (police officers and fire fighters) are eligible to seek reassignment 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 reassigned 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 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 vacation leave as a new Career Service employee. If the employee so wishes, the employee's sick days that he or she accrued as a Classified Service employee will be carried over to the new Career Service

position up to the maximum hours allowed by the Career Service Authority Rules, or the employee may elect to accept a monetary payment for the accrued sick leave upon leaving the Classified Service.

13. If an employee is reassigned to either an equivalent or demotion position, the employee shall be paid at the step closest to the one he or she earned in the former position without a pay increase.

G. Interactive process leave

During the interactive process, if an employee is unable to perform his or her existing job, the employee may use any available sick leave, vacation leave, compensatory leave, donated sick leave, and the employee's personal holiday. If no such paid leave is available to the employee, he or she shall be provided with authorized leave without pay during the interactive process.

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.

Effective Date: January 23, 2001

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.

Section 5-100 Dual Employment

(Effective June 7, 1962; Rules Revision Memo 130)

5-101 Charter Provisions

Section C5.13 of the Denver City Charter provides: 'Except as otherwise herein provided, no officer or employee shall hold or enjoy any other public office or

public employment for which he is paid any compensation. Notwithstanding the provisions of any other section of this Charter, any elected officer may serve upon the governing board or body of any public body or of any municipal or quasi-municipal corporation within which or part of which the City and County of Denver, or a part thereof is located, or of which the City and County of Denver is an interested or constituent member, and if he be the appointing officer, may appoint himself thereto, so long as such elected officer, in either event, waives compensation for such additional service; provided, however, that the prohibitions of this section concerning incompatibility of office and conflicts of interest shall be in full force and effect with respect to such service. Any employee or officer, other than an elective officer may, subject to the requirements of this section, likewise serve upon such governing board or body, and receive compensation therefor, or may be employed by any other governmental jurisdiction or agency and receive compensation therefor. No officer or employee shall become surety on the official bond of any other officer or employee.

"No officer or employee of the City and County of Denver or any of its agencies shall hold any other public office or employment which is incompatible with his duties as such officer or employee; nor shall he have any direct interest in any contract with the City, not related to his employment; nor shall he have any interest arising by contract or other relationship which creates a substantial conflict of interest with respect to his duties as such officer or employee, which cannot be avoided by abstention or disqualification from participation in a transaction or series of transactions without adversely affecting the interest of the City. A conflict of interest is substantial when it is reasonably probable that it might tend to affect the judgment or actions of an officer or employee in the performance of his duties as such officer or employee.

"It shall be the duty of every officer other than an elective officer, and every employee, to report in writing to his appointing authority any employment or other business activity in which he proposes to engage, prior to accepting the same or taking part therein, or promptly after the adoption of this amendment, and likewise to report promptly to his appointing authority any situation in which he reasonably feels or should feel that he may be or may become involved in a substantial conflict of interest. Violation of this amendment shall be grounds for discharge or other disciplinary action."

5-102 Policy.

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; Rules Revision Memo 02, Series B)

Section 5-110 Compliance With the Immigration Reform and Control Act of 1986
(Effective May 21, 1987; Rules Revision No. 96, Series B)

5-111 Policy

The policy of the Career Service 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 Career Service Authority 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 Career Service Authority 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 Personnel 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.

Page Issuance Date: July 11, 1994

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.