MEMORANDUM

REVISION 15 SERIES D

TO: Holders of Career Service Rule Books

FROM: Career Service Board

DATE: November 18, 2015

SUBJECT: Revision of Career Service Rule 5 APPOINTMENTS AND STATUS

The Career Service Board has approved revisions to Career Service Rule 5 APPOINTMENTS AND STATUS and to related rules. Here is a summary of the changes to these rules:

- The new Rule 5 will eliminate probationary periods and transfer transition periods for employees who promote and transfer within the Career Service. Employees who are hired into or promoted to supervisory or managerial positions will still be expected to complete the required supervisory training, but completion of required courses can no longer be tied to passing promotional probation since it will no longer exist. Performance deficiencies of employees who promote or transfer would have to be addressed through performance management and the normal disciplinary process.

- **PLEASE NOTE:** Employees who are serving promotional probation or in a transfer transition period on the effective date of the rule change would be grandfathered so that the provisions of the old rule would continue to apply to them until they complete probation or the transfer transition period. Employees promoted or transferred after the effective date would be covered by the new rule.

- Probation
  - Probation extensions no longer require OHR director approval. **PLEASE NOTE:** Notice of a probation extension must be provided to OHR and the employee before the end of probation date for the extension to be effective.
  - The new rule clarifies language around ending probation so that it is consistent with the concept that employees on employment probation are at will and may be separated for any reason. The proposal will eliminate the confusing 2 day notice requirement in Rule 5.
  - Any appointment during employment probation starts employment probation over again.
  - Minimum probation for certain dispatcher classifications and Staff Probation Officer is now 9 months (and can be extended for another 3 months). **PLEASE NOTE:** This change only applies to employees hired into these classifications after the effective date of this new rule.
  - Re-names supervisory training classes.
  - Employees who have served in a supervisory or managerial position in the last three years are not required to re-take required managerial training.
  - Rule 6 eliminated and parts merged into Rule 5.

- This rule change eliminates re-assignment appointments, but broadens the definition of a transfer appointment to cover re-assignments.
The new rule will specifically require employees who demote or transfer to meet the minimum qualifications of the new classification.

ADA
- Removes ADA rules that are just a re-statement of Federal definitions
  - Definition of disability.
  - Definition of qualified individual with a disability.
  - Definition of qualification standards and direct threat.

Creates at-will status, which includes on-calls, paid trainees, paid interns, and employees on employment probation.

Terminology changes
- Non-career status to on-call
- Trainee or intern probationary status to paid trainee or paid intern status
- OHR designee to ADA Coordinator.

Re-organized for better flow and clarity.

Adds purpose statement.

Charter and ordinance provisions contained in Rule 5 deleted.

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- November 18, 2015
RULE 1
DEFINITIONS
(Revised November 18, 2015; Rule Revision Memo 15D)

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).

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).

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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).

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).

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 on-call status positions (Revised November 18, 2015; Rule Revision Memo 15D).
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).

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).

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).
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).

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).

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).
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
(Revised November 18, 2015; Rule Revision Memo 15D)

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, or demotion 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 an ADA re-assignment under Rule 5 **APPOINTMENTS AND STATUS.**

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

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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 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; (Revised November 18, 2015; Rule Revision Memo 15D)

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.
Purpose statement:

The purpose of this rule is to identify:

A. Types of appointments (the process of moving employees into vacant positions) and the process of making appointments;
B. Types of positions and employee status;
C. Medical groups and standards following a conditional offer of employment;
D. Dual incumbency and dual employment;
E. Compliance with the Immigration Reform and Control Act of 1986; and
F. The Americans with Disability Act (ADA) interactive process.

Section 5-10 Appointments

A. The Career Service shall comprise all employees of the City and their positions, subject to the exceptions in the City Charter.

B. Appointing authorities, including the Office of Human Resources (“OHR”) Executive Director, may delegate any authority provided under this Rule 5 to a subordinate employee.

5-11 Appointments of Applicants Who Are Not in the Career Service

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 appointment;

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.

5-12 **Appointments of Employees Who Are in the Career Service**

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 previous 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 referral from a re-instatement list in accordance with Rule 3 RECRUITMENT.

C. **Re-promotional appointment**: 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 previous classification subject to the following conditions:

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

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.
D. **Transfer appointment**: An appointment of an employee from a position in one classification to a different position in the same classification or a classification with the same range minimum for which the employee meets the minimum qualifications.

1. An employee may be given a transfer appointment between departments or agencies provided that the employee and the receiving appointing authority consent.

2. 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.

E. **Demotion appointment**: An appointment of an employee to a position in a classification for which the employee meets the minimum qualifications and 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.

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

   a. **Voluntary**:

      i. When an employee requests the demotion, or accepts a voluntary demotion in lieu of lay-off as defined in Rule 14 SEPARATION OTHER THAN DISMISSAL; or

      ii. When an employee accepts the offer of a position with lower pay and benefits as a reasonable accommodation in the ADA Interactive Process.

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

   c. **Involuntary**:

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

      ii. In lieu of separation during employment probation in accordance with this Rule 5.
2. Notice to employee: Before a demotion appointment is effective, the following documentation shall be provided to the employee and submitted to the OHR:

   a. Written consent of the employee to a voluntary demotion; or

   b. A written notice of demotion in lieu of lay-off as required by Rule 14 SEPARATION OTHER THAN DISMISSAL; or

   c. A written notice of disciplinary demotion as required by Rule 16 DISCIPLINE AND DISMISSAL; or

   d. A written notice of demotion in lieu of separation during employment probation, or during paid trainee or paid intern status.

Section 5-20 Types of Positions

5-21 General

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

A. Duration; and

B. Number of hours worked.

5-22 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.

5-23 Number of Hours Worked

A. Identification of positions by category: Each position in the Career Service shall be identified by one of the following categories based on work schedule:

   1. Full time;

   2. Part time;

   3. On call.

Page issuance date: November 18, 2015
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.
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.

Section 5-30 Employee Status

Every Career Service employee shall hold at least one of the following employee status identifications:

A. **At-will status,** which is made up of:
   
   1. **On-call status;**
   2. **Paid trainee or paid intern status;** and
   3. **Employment probationary status.**

B. **Career status**

C. **Senior Command Staff status.**

5-31 **At-will Status**

At-will employees:

A. May be separated with or without notice and with or without cause at any time; and

B. May not appeal any decision relating to his or her employment, including separation, except on the grounds of alleged discrimination or violation of the City’s “Whistleblower Protection” ordinance.

5-32 **On-call status**

Every person who is appointed to an on-call position shall hold on-call status for the duration of the appointment.
5-33 Paid Trainee or Paid Intern Status

A. Every person who is appointed to a trainee or intern position shall hold paid trainee or paid intern status for the duration of the appointment. The Public Safety Cadet classification is considered a trainee classification under these rules.

B. The duration of paid trainee and paid intern status is set by the applicable classification specification.

C. End of paid training or paid internship period:

1. The department or agency shall report to the OHR, in writing, at the conclusion of paid trainee or paid intern status, whether the trainee or intern has successfully completed the training or internship 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 training or internship period prior to the employee’s completion of the training or internship period.

3. Upon a determination by the OHR that the trainee or intern has successfully completed the training or internship period, the department or agency may promote the trainee or intern into the position the trainee or intern was being trained to perform.

5-34 Employment Probationary Status

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 probationary period established by this Rule 5.

A. An employment probationary period shall be regarded as an integral part of the examination process. It 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 an employee as provided in this rule.
B. **Duration of employment probation:**

Except as provided below, the minimum period of employment probation shall be six (6) months.

1. The minimum period of employment probation for employees in Deputy Sheriff classifications shall be twelve (12) months.
2. The minimum period of employment probation for employees in the Aviation Emergency Dispatcher, Emergency Communications Operator, Police Dispatcher, and Staff Probation Officer classifications shall be nine (9) months.

C. An employee’s end of probation date shall be calculated by adding the required amount of months (six, nine or twelve months) to the employee’s hire date and subtracting a day.

D. **Required training:**

1. All Career Service employees serving employment probation are required to complete training programs during their probationary period that address the following topics:
   
a. New employee orientation;
   
b. Ethics and accountability;
   
c. Preventing harassment and workplace violence; and
   
d. Any other training required by the DRMC and applicable Executive Orders.

2. Employees appointed or re-allocated to positions with supervisory or managerial duties are required to complete new manager training that addresses the following topics:
   
a. The Performance Enhancement Program and Performance Enhancement Program Reports;
   
b. Preventing harassment and workplace violence (for managers); and
   
c. Employment laws, the Career Service Rules, and discipline.

Employees who are serving employment probation as a result of being appointed to a position with supervisory or managerial duties are required to complete the required supervisory training during their probationary period.
3. a. Employees who completed the required new hire training within the three years prior to the effective date of appointment are not required to take that training again.

b. Employees who have completed the required new manager training or who have held a position within the Career Service with supervisory or managerial duties within the three years prior to the effective date of appointment, promotion, or the submittal of a re-allocation request are not required to take that training again.

4. 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.

E. Extension of employment probation:

1. Appointing authorities may extend an employee’s employment probation for a period not to exceed an additional six (6) months after the original end of probation date. Notice of the extension shall be given to the employee and received by the OHR prior to the end of the employee’s end of probation date. Employment probation for employees in the Aviation Emergency Dispatcher, Emergency Communications Operator, Police Dispatcher, and Staff Probation Officer classifications may only be extended for a period not to exceed an additional three (3) months after the original end of probation date.

2. Employees serving employment probation who have not completed training programs required by this rule as a condition of passing probation will have their probationary periods automatically extended until the training programs have been completed. City departments and agencies are expected to make sure their employees meet the training requirements of this rule. This paragraph shall not affect a department or agency’s ability to end probation at any time.

F. End of employment probation notification:

1. Supervisors are encouraged to evaluate employee performance and discuss it with the employee during the employment probationary period so that employees are fully informed of their progress.

2. An employee’s successful completion of an employment probationary period shall be documented by the completion of a notification form prepared by the employing department or agency in a format authorized by the OHR.
3. a. If a department or agency is going to separate an employee during employment probation, a written notice of separation or dismissal shall substitute for the notification form.

   b. Such notice shall be given to the employee on or before the employee’s last day of employment probation and last day as a City employee.

   c. An employee who has completed the required employment probationary period and the training programs required by this rule shall attain career status unless a written notice of the extension of the employee’s employment probation, or of the employee’s separation or dismissal has been given to the employee and has been received at the OHR prior to the end of the employment probationary period.

G. An employee serving employment probation may be separated in accordance with Rule 16 **DISCIPLINE AND DISMISSAL**, or demoted to a position with less responsibility in accordance with this Rule 5. An employee who is appointed to another position during employment probation shall begin a new employment probationary period.

5-35 Career Status

A. Employees attain career status through:

1. Successful completion of the employment probationary period, and the training programs required by this Rule 5; or

2. Re-instatement after lay-off.

B. An employee in career status:

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

2. Is entitled to lay-off protection specified in Rule 14 **SEPARATION OTHER THAN DISMISSAL**, except for employees in limited positions; and

3. 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.
5-36 Senior Command Staff Status

A. 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.

B. 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:

1. 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

2. 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 5-40 Medical Examinations Following a Conditional Offer of Employment

5-41 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.

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

C. Sedentary (S): Positions which require little physical labor or exertion.
5-42 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.

5-43 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 (such as operating snow removal equipment). The determination of whether a conditional offer of employment and a post-employment offer medical examination is required 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 5-50 Dual Incumbency

Subject to approval by the Budget and Management Office, or its designee, 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 5-60 Dual Employment

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.

Section 5-70 Compliance with the Immigration Reform and Control Act of 1986

5-71 Policy

The policy of the Board is to conform to the provisions of Federal and Colorado immigration law, including but not limited to the Immigration Reform and Control Act of 1986, the Immigration Act of 1990, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and regulations based upon these laws.

5-72 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 Federal immigration law.

5-73 Penalty

In accordance with the requirements of Federal immigration law, any employee failing to comply with this section of Rule 5 APPOINTMENTS AND STATUS shall be terminated immediately.

Section 5-80 The ADA Interactive Process

5-81 Policy

A. It is the policy of the City to provide equal employment opportunity to qualified 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. In case of a conflict between this rule and the ADA (and its corresponding regulations), the ADA will control. Additional information about the ADA may be found on the Equal Employment Opportunity Commission’s website, www.eeoc.gov.

B. 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 any terms, conditions, or privileges of employment.
5-82 ADA Definitions

A. ADA Coordinator: Person or persons designated by the OHR Executive Director to act on behalf of the OHR in the Interactive Process (IAP).

B. Vacant position: An empty position that a department or agency is authorized to fill and intends to fill.

5-83 Interactive Process (IAP)

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, or pose a direct threat to any person. These determinations with regard to employees shall be made through the IAP. The process for accommodating applicants can be found in Rule 3 RECRUITMENT.

A. The City shall initiate an IAP when:

1. An employee provides notice that the employee needs a reasonable accommodation to perform the essential functions of the employee’s position; or

2. The employee’s department or agency has actual or constructive notice that an employee may have a disability for which the employee needs reasonable accommodation.

B. The IAP shall be a flexible, informal process that involves the department or agency, the employee and the ADA Coordinator, and requires the good faith participation of all parties. The ADA Coordinator may terminate the IAP if the employee fails to cooperate in the process.

C. The purpose of the IAP shall be to determine if:

1. The employee has a disability within the meaning of the ADA;

2. If so, whether the employee needs a reasonable accommodation to perform the essential duties of his or her job, or another job; and

3. If so, whether the employee can be reasonably accommodated.

D. In order to make this determination, the ADA Coordinator may request and review medical records and other documentation in the possession, custody, or control of the employee’s health care providers. The ADA Coordinator may also 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 by the department or agency where the employee is presently employed.
E. If the employee is determined to have a disability as defined in the ADA, the ADA Coordinator, department or agency, and the employee shall endeavor to identify any reasonable accommodations the employee may need to be able 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. If the employee is determined not to have a disability as defined in the ADA, or it is determined that the employee cannot be reasonably accommodated, the ADA Coordinator will end the IAP and disqualification proceedings may be initiated by the employee’s department or agency if the employee remains unable to perform the essential functions of his or her position.

5-84 Re-assignment:

A. 1. If the ADA Coordinator determines that an employee with a disability cannot be reasonably accommodated in his or her current position; the employee expresses an interest in remaining employed with the City; and the employee’s restrictions allow the employee to be reasonably accommodated in other positions, the ADA Coordinator shall explore re-assignment to a vacant position as a possible reasonable accommodation.

2. This determination shall be communicated in writing to the employee as soon as possible after it has been made.

3. The ADA Coordinator shall look for positions that are vacant and become vacant during the three (3) months immediately following this written communication.

4. The ADA Coordinator shall terminate the IAP before the end of the three-month period if the employee withdraws his or her request for re-assignment, or if the employee accepts an IAP re-assignment.

B. Re-assignment is not available:

1. To a position that constitutes a promotion. If the employee originally took a demotion as an ADA re-assignment, the ADA Coordinator may consider positions above the employee’s current pay grade if the employee is eligible for re-promotion (as defined in this Rule 5) to that position and is able to perform the essential functions of that position with or without accommodations. This does not preclude an employee from applying for promotions within the Career Service;

2. To job applicants who are not currently City employees.
C. 1. The ADA Coordinator’s priority is to identify vacant positions that are equivalent to the employee’s current position in terms of pay and benefits, first in the employee’s department or agency, and then in other departments or agencies.

2. If no equivalent positions exist, the ADA Coordinator’s next priority is to identify vacant positions of lower pay and benefits, first in the employee’s department or agency, and then in other departments or agencies.

3. If no vacant positions become available during the three-month re-assignment period, the ADA Coordinator shall terminate the IAP and disqualification proceedings may be initiated by the employee’s department or agency.

D. 1. The ADA Coordinator shall analyze the employee’s specific experience, skills and background, and the specific job duties of the vacant position. The employee does not need to be the best-qualified individual for the position in order to be re-assigned to it.

2. The ADA Coordinator shall provide the employee with information about all vacancies for which the employee:

   a. Meets the minimum education, experience and licensing or certification requirements; and

   b. Is able to perform the essential functions with or without accommodations.

3. The employee may express his or her preference regarding the selection of a re-assignment position. However, the ADA Coordinator is free to choose the re-assignment position to be offered to the employee.

E. An employee with a disability may decline a re-assignment appointment that is a demotion and request that the ADA Coordinator continue looking for vacant positions within the three-month time period. However, if an employee declines an offer of a transfer to a comparable position in terms of salary and benefits, the ADA Coordinator shall terminate the IAP and disqualification proceedings may be initiated by the employee’s department or agency.

F. A department or agency to which an employee with a disability is being re-assigned is required to cooperate with the re-assignment process coordinated by the ADA Coordinator and accept the re-assignment of that employee through the IAP. However, the department or agency 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.
G. 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.

H. 1. 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.

2. Re-assigned employees shall be provided any reasonable accommodation necessary for the employees to perform the essential functions of the new position.

I. 1. If an employee with a disability is re-assigned to a vacant position and the department or agency subsequently determines that the employee with a disability is unable to perform the essential functions of the position, with or without reasonable accommodation, the IAP will be resumed from the beginning.

2. The IAP 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.

5-85 Re-assignment of Classified Service Employees

A. A Classified Service employee (police officer or fire fighter) with a disability is eligible to seek re-assignment to a vacant Career Service position as a form of reasonable accommodation if he or she cannot be reasonably accommodated in his or her Classified Service position. 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.

B. 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.

C. 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.
5-86 ADA Leave

A. ADA leave shall be provided:

1. During the IAP if an employee is unable to perform the essential functions of 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 IAP.

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

5-87 Retaliation and Coercion

A. 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.

B. 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).

5-88 Confidentiality and Record Keeping

Any medical information obtained about an employee during the IAP shall be collected and maintained on separate forms and in separate files and be treated as confidential, except that:

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

B. 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.

C. First-aid and safety personnel may be informed if the disability requires emergency treatment.

D. Information may be given to the state workers’ compensation offices, and state second injury funds, in accordance with the state workers’ compensation laws.
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, reallocation, or promotional re-instatement. (Revised November 18, 2015; Rule Revision Memo 15D)

9-31 Promotion and re-promotion

A. Upon promotion an employee’s pay shall be increased by at least eight percent (8.0%). 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. (Revised July 31, 2015; Rule Revision Memo 12D)

B. The appointing authority may increase an employee’s pay by more than ten percent (10%) 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 July 31, 2015; Rule Revision Memo 12D)

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.
9-35 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 AND COMPENSATION, 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.

(Revised September 25, 2015; Rule Revision Memo 14D)

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.
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 November 18, 2015; Rule Revision Memo 15D)

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. On-call 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. On-call 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.
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 paid trainees and paid interns to arrange their work schedule if they need to attend classes during normal working hours. Paid trainees and paid interns are not entitled to training leave while attending classes for the degree or certificate program they are required to complete during their training or internship period. (Revised November 18, 2015; Rule Revision Memo 15D)

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.
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 on-call, paid trainee or paid intern, or employment probationary status; (Revised November 18, 2015; Rule Revision Memo 15D)

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.

Page issuance date: November 18, 2015
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 On-call, Paid Trainee or Paid Intern, or Employment Probationary Status**

(Revised November 18, 2015; Rule Revision Memo 15D)

A. An employee holding on-call, paid trainee or paid intern, 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, paid trainee or paid intern, or employment probationary status may also be dismissed as provided in Rule 16 **DISCIPLINE AND DISMISSAL.**
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 14.

E. **Establishment of lay-off groups:** After separating all on-call and employment probationary 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: (Revised November 18, 2015; Rule Revision Memo 15D)

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.
14-45 Actions In Lieu of Lay-off

A. 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 November 18, 2015; Rule Revision Memo 15D).

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. **Transfer to limited position:** If there are limited positions in the same classification in the lay-off unit, an employee selected to be laid-off shall be given the choice of transferring 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 transfer shall not result in removal of the employee from the re-instatement list or lists (Revised November 18, 2015; Rule Revision Memo 15D).

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).

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**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.
16-75 Procedure for Dismissal  
(Revised May 7, 2012; Rules Revision Memo 62C)  

A. An employee holding on-call, paid trainee or paid intern, 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. (Revised November 18, 2015; Rules Revision Memo 15D)

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.