

CAREER SERVICE BOARD,  
CITY AND COUNTY OF DENVER

**NOTICE OF ADOPTION OF EMERGENCY RULES**

NOTICE IS HEREBY GIVEN by the Career Service Board, City and County of Denver, pursuant to Denver Revised Municipal Code § 2-98, that, on this date, a quorum of the Career Service Board considered and, upon a proper vote, adopted emergency rule revisions to Career Service Rule 9-91, as attached, which were deemed necessary to immediately protect the public health, safety or welfare. The emergency rules so adopted will remain in effect for no more than 180 days from this date.

Respectfully submitted, this 14<sup>th</sup> day of January 2022.

*Rory McLuster*  
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Rory McLuster  
Deputy Director, Office of Human Resources  
On Behalf of the Career Service Board

**Denver Revised Municipal Code 2-98 Emergency rules** – Any adopting authority may adopt rules without following the notice and hearing requirements of this article if such action is necessary to comply with state, local or federal law or if it is deemed necessary by the adopting authority to protect immediately the public health, safety or welfare. After adoption, the complete text of rules so adopted shall be filed with the city clerk and a notice of adoption shall be published. Rules adopted in such cases shall take effect on the date of adoption, or such later date as stated in the notice of adoption of the rules. However, such rules shall not continue in effect for more than one hundred eighty (180) days after the date of their adoption and may not be re-adopted in the same or substantially the same form without meeting the rule-making requirements described in other sections of this article.

**EMERGENCY RULE REVISION 9-91.A**

**TO:** Appointing Authorities, Managers, and Employees  
**FROM:** Cindy Bishop & Rory McLuster  
 Co-Interim Executive Directors, OHR  
**DATE:** January 14, 2022  
**SUBJECT:** Emergency Adoption of Revision to CS Rule 9-91.A - Overtime Policy

CURRENT RULE	REVISED RULE	#	REVISION INTENTION & IMPACT
<p><b><u>Section 9-90 Overtime</u></b></p> <p>9-91 <u>Policy</u>            (Revised April 9, 2018; Rule Revision Memo 38D)</p> <p>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. Overtime compensation for non-exempt employees may be paid either in cash or in compensatory time off, at the discretion of the appointing authority. The appointing authority shall inform employees of the department’s or agency’s overtime compensation policy.</p> <p>1. Non-exempt employees who work overtime and are paid in cash shall receive compensation at the rate of</p>	<p><b><u>Section 9-90 Overtime</u></b></p> <p>9-91 <u>Policy</u>            (Revised April 9, 2018; Rule Revision Memo 38D)</p> <p>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. Overtime compensation for non-exempt employees may be paid either in cash or in compensatory time off, at the discretion of the appointing authority. The appointing authority shall inform employees of the department’s or agency’s overtime compensation policy.</p> <p>1. Non-exempt employees who work overtime and are paid in cash shall receive compensation at the rate of one and one-half (1½) times the regular rate of pay applicable to the position. The regular rate of pay shall be computed as follows:</p> <p>a. Multiply the hourly rate by the employee’s actual hours of work in the work week to determine the weekly salary equivalent.</p>	<p>CSR 9-91</p>	<p>The intent of the emergency revision to Rule 9-91 is to allow the City to implement temporary changes to the overtime policy during a citywide emergency that is more generous than the current rule allows, in order to address issues such as staffing shortages, low employee morale or retention issues that can arise during a longstanding and/or traumatic crisis.</p> <p>The current impact of the emergency rule revision will be to allow the City to temporarily pay a higher rate of overtime to eligible employees in an effort to address critical staffing shortages attributable to the high numbers of city employees contracting or experiencing known</p>

<p>one and one-half (1½) times the regular rate of pay applicable to the position. The regular rate of pay shall be computed as follows:</p> <p>a. Multiply the hourly rate by the employee's actual hours of work in the work week to determine the weekly salary equivalent.</p> <p>b. Total the weekly salary equivalent plus all payments for differentials, standby, and any other compensation required by the FLSA to be included in the regular rate of pay for the work week, and divide by the number of hours the employee actually worked during that week.</p> <p>2. Non-exempt employees who work overtime and are paid in compensatory time off shall accrue compensatory time at the rate of one and one-half (1½) times the overtime hours worked. An employee who has accumulated eighty (80) hours of compensatory time and is required to work overtime shall only be paid for such overtime in cash.</p> <p>B. If a paid holiday, a period of paid leave, or use of compensatory time occurs during a work week, such time shall be counted as time worked when determining whether an employee has worked overtime.</p> <p>Time spent taking courses outside of the normal workday shall not be counted as time worked, even if the employee receives paid training leave to take the courses, unless the city has required the employee to take the course.</p>	<p>b. Total the weekly salary equivalent plus all payments for differentials, standby, and any other compensation required by the FLSA to be included in the regular rate of pay for the work week, and divide by the number of hours the employee actually worked during that week.</p> <p>2. Non-exempt employees who work overtime and are paid in compensatory time off shall accrue compensatory time at the rate of one and one-half (1½) times the overtime hours worked. An employee who has accumulated eighty (80) hours of compensatory time and is required to work overtime shall only be paid for such overtime in cash.</p> <p><b><u>3. Nothing in this subsection A shall be construed to prevent the City from temporarily increasing the overtime rate to be paid to non-exempt and/or exempt employees, mandating that all such overtime be paid in cash, or otherwise administering overtime in a manner that is more generous to employees than the FLSA requires due to a city-wide emergency declared by the Mayor.</u></b></p> <p>B. If a paid holiday, a period of paid leave, or use of compensatory time occurs during a work week, such time shall be counted as time worked when determining whether an employee has worked overtime.</p> <p>Time spent taking courses outside of the normal workday shall not be counted as time worked, even if the employee receives paid training leave to take the courses, unless the city has required the employee to take the course.</p> <p>C. Unpaid leave shall not count as time worked.</p> <p>D. The hours worked as an election judge by an employee shall not be counted as time worked for the purposes of determining overtime eligibility. If an employee wishes to work as an election judge during a regularly scheduled shift, the employee must request leave from the appointing authority.</p>	<p>exposures to Covid-19, which are potentially jeopardizing the City's ability to provide core services to the public.</p> <p>The higher rate of overtime pay will also serve to recognize and reward those employees who are sacrificing their personal time, and potentially increasing their risk of contracting Covid-19, by working long hours of overtime.</p> <p>This revision may also have a future impact of allowing the City to temporarily mandate that all overtime be paid to employees in cash, or otherwise temporarily administering overtime more generously during a citywide emergency.</p>
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<p>C. Unpaid leave shall not count as time worked.</p> <p>D. The hours worked as an election judge by an employee shall not be counted as time worked for the purposes of determining overtime eligibility. If an employee wishes to work as an election judge during a regularly scheduled shift, the employee must request leave from the appointing authority.</p>			
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**DELETIONS ARE INDICATED BY strike through AND ADDITIONS ARE INDICATED BY bold, italics, and underline.**

Section 9-90 Overtime

9-91 Policy

(Revised April 9, 2018; Rule Revision Memo 38D)

- 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. Overtime compensation for non-exempt employees may be paid either in cash or in compensatory time off, at the discretion of the appointing authority. The appointing authority shall inform employees of the department's or agency's overtime compensation policy.
1. Non-exempt employees who work overtime and are paid in cash shall receive compensation at the rate of one and one-half (1½) times the regular rate of pay applicable to the position. The regular rate of pay shall be computed as follows:
    - a. Multiply the hourly rate by the employee's actual hours of work in the work week to determine the weekly salary equivalent.
    - b. Total the weekly salary equivalent plus all payments for differentials, standby, and any other compensation required by the FLSA to be included in the regular rate of pay for the work week, and divide by the number of hours the employee actually worked during that week.
  2. Non-exempt employees who work overtime and are paid in compensatory time off shall accrue compensatory time at the rate of one and one-half (1½) times the overtime hours worked.
  3. **Nothing in this subsection A shall be construed to prevent the City from temporarily increasing the overtime rate to be paid to non-exempt and/or exempt employees, mandating that all such overtime be paid in cash, or otherwise administering overtime in a manner that is more generous to employees than the FLSA requires due to a city-wide emergency declared by the Mayor.**
- B. If a paid holiday, a period of paid leave, or use of compensatory time occurs during a work week, such time shall be counted as time worked when determining whether an employee has worked overtime.
- Time spent taking courses outside of the normal workday shall not be counted as time worked, even if the employee receives paid training leave to take the courses, unless the city has required the employee to take the course.
- C. Unpaid leave shall not count as time worked.
- D. The hours worked as an election judge by an employee shall not be counted as time worked for the purposes of determining overtime eligibility. If an employee wishes to work as an election judge during a regularly scheduled shift, the employee must request leave from the appointing authority.