

RULE 5
APPOINTMENTS AND STATUS
(Revised May 9, 2016; Rule Revision Memo 19D)

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; and
- E. Compliance with the Immigration Reform and Control Act of 1986.

(Revised May 9, 2016; Rule Revision Memo 19D)

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

(Revised February 21, 2017; Rule Revision Memo 25D)

The following is a list of the types of appointments of applicants who are not in the Career Service as defined in Career Service Rule 1 **DEFINITIONS**:

- A. Employment appointment: An appointment made as a result of referral of an employment list in accordance with Rule 3 **RECRUITMENT AND 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 referral from a re-instatement list in accordance with Rule 3 **RECRUITMENT AND 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 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
(Revised August 19, 2021; Rule Revision Memo 69D)

The following is a list of the types of appointments of employees who are in the Career Service as defined in Career Service Rule 1 **DEFINITIONS**:

- A. Promotional appointment:
- B. Promotional re-instatement appointment:
- C. Transfer appointment:
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.
- D. Demotion appointment
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.
- 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 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.

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.

A. 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, County Court Marshal, and Social Case Worker classifications shall be twelve (12) months. (Revised July 15, 2021; Rule Revision Memo 67D)
2. The minimum period of employment probation for employees in the Airport Emergency Dispatcher, Emergency Communications Technician, Police Dispatcher, Staff Probation Officer, Child Support Technician I, and Eligibility Technician I classifications shall be nine (9) months. (Revised July 15, 2021; Rule Revision Memo 67D)

B. 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.

C. Required training:

(Revised May 22, 2018; Rule Revision Memo 40D)

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 public accountability;
 - c. The Respectful Workplace: Employee Edition, which includes workplace violence prevention;
 - d. Sexual harassment prevention;
 - e. STARS – Denver City values;
 - f. Workday – the City's HR and financial information system;
 - g. Performance management – performance reviews and goal setting; and

- h. Any other training required by the employee's department or agency, the DRMC, and/or applicable Executive Orders, that are clearly communicated to the employee.
2. Employees appointed or re-allocated to positions with supervisory or managerial duties are required to complete, in addition to the training listed above, new manager training that addresses the following topics:
- a. The Respectful Workplace: Manager Edition, which includes workplace violence prevention;
 - b. Employment laws, the Career Service Rules, and discipline;.-
 - c. Workday training for those who manage others; and
 - d. KRONOS timekeeping.

Employees who are serving employment probation in a position with supervisory or managerial duties are required to complete the required supervisory training during their probationary period.

Employees who are not serving employment probation, but are appointed or re-allocated into a position with supervisory or managerial duties, must complete the required supervisory training within ninety (90) calendar days of their appointment or re-allocation.

- 3.
 - a. Employees who completed the required training within the three years prior to the effective date of appointment are not required to take that training again.
 - b. All employees will be expected to complete refresher training on certain training topics.
- 4. City departments and agencies are expected to make sure their employees meet the training requirements of this rule.

D. Extension of employment probation:
(Revised May 22, 2018; Rule Revision Memo 40D)

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 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.

- E. End of employment probation:
(Revised May 22, 2018; Rule Revision Memo 40D)
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 department or agency and the documentation shall be sent to the employee and 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 be given to the employee on or before the employee's last day of employment probation and last day as a City employee.
 - b. 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.
- F. 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.
- G. 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 table 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. (Revised April 9, 2021; Rule Revision Memo 66D)
- 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
(Revised April 9, 2018; Rule Revision Memo 36D)

5-41 Medical Groups

All classifications in the Career Service shall be allocated to a medical group by the City's Risk Management Office. The medical groups are as follows:

- A. Sedentary (1): Work that involves lifting no more than 10 pounds at a time.
- B. Light (2): Work that involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds.
- C. Medium (3): Work that involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds.

- D. Heavy (4): Work that involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds.
- E. Very Heavy (5): Work that involves lifting objects more than 100 pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more.

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 Medical Director at 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) and approved by the City’s Risk Management Office. 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. Whether an applicant is required to submit to a medical examination after receiving an offer of employment is set by the applicable job classification specification. The offer of employment shall be conditioned on the results of the medical examination. The examination shall be administered 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). 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. 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.