

**ADDITION OF NEW CAREER SERVICE RULE 10 PAID LEAVE AND  
REVISIONS TO RELATED RULES**

**PLEASE READ AS SOON AS POSSIBLE**

**TO:** Appointing Authorities, Managers and Employees

**FROM:** Jeff Dolan, CSA Director

**DATE:** December 29, 2009

**SUBJECT:** Addition of Career Service Rule 10 PAID LEAVE and revision to related rules

City Council recently passed a PTO ordinance that will take effect on January 1, 2010. In order to implement it, Career Service Rule 11 and other related rules must be revised. Rule 11 has been broken into two parts; Rule 10, governing paid leave; and Rule 11, governing unpaid and extended leave. In addition to the new PTO provisions, Rule 10 also includes paid sick and vacation, military, election, court, holiday, training and administrative leave. Here is a summary of the most significant changes to these rules (in addition to the revisions made necessary by the new PTO ordinance):

- Partial leave accruals will no longer be calculated when an employee has used leave without pay during a month.
- Two ways of using PTO are recognized; (1) Usage without agency approval (similar to sick leave); (2) Usage requiring agency approval (similar to vacation leave).
- PTO recipients will be able to donate and receive donated leave. PTO recipients cannot donate leave if it will reduce their leave balance below 80 hours.
- Police and fire employees in the Classified Service who are placed in a Career Service position through the interactive process must enter the PTO plan.
- The election leave rule has been re-worded so that it is more consistent with the Colorado statutes.
- The court leave rule has been simplified.
- The holiday leave rule has been re-written to reflect its source in the ordinances, and re-organized.
- Investigatory and compensatory leave sections have been added to pull all paid leave provisions together in one place.

- **A section has been added to the administrative leave rule to cover the use of administrative leave to represent other employees (now found in Rule 15). This provision was also revised to allow the use of 4 hours per pay period (it now allows 2 hours per week).**
- **Administrative leave for business necessity may now be extended for up to 20 additional days (the current rule allows 5 day extensions).**

**There are also minor revisions to other rules that refer to Rule 11 so that they will refer to Rule 10 when appropriate. Additionally, revisions have been made to Rules 9-73 B.2.b (City-wide emergencies) and 9-101 (Holiday compensatory time) to bring the provisions in these rules regarding comp time pay-out dates in line with the recent revisions to Rule 9-100 A.1.b.(i) (changing the date from October to April). The sections of the current Rule 11 that are being moved to Rule 10 will be deleted from Rule 11.**

**MEMORANDUM**

**REVISION 42 SERIES C**

**TO:** Holders of CSA Rule Books  
**FROM:** Career Service Board  
**DATE:** December 29, 2009  
**SUBJECT:** Revision to Career Service Rules

The Career Service Board has approved the addition of Career Service Rule 10 **PAID LEAVE** and revisions to related rules. The effective date of these revisions is January 1, 2010.

	<b><u>Page Number</u></b>	<b><u>Issuance Dates</u></b>
<b>Remove:</b>	<b>Related rules</b>	
	1-3	June 8, 2007
	1-4	May 4, 2007
	5-6, 5-7, 5-7.1	October 2, 2007
	5-12.5	March 17, 2006
	5-12.6	January 23, 2001
	5-12.7	May 4, 2007
	5-13, 5-14	July 11, 1994
	9-13.1	June 8, 2007
	9-14	March 4, 2009
	9-19	April 1, 2008
	14-8	May 4, 2007
	14-9	April 15, 1999
	14-10	May 4, 2007
	15-3, 15-7	April 26, 2001
	16-5	October 2, 2007
	<b>Entire Rule 11</b>	
	11-1	August 5, 2009
	11-2 through 11-5	October 10, 2008
	11-6	August 5, 2009
	11-7, 11-7.1, 11-7.2	September 18, 2009
	11-8, 11-9	October 10, 2008
	11-10	March 4, 2009
	11-11	December 2, 2003
	11-12	January 1, 2006
	11-12.1	February 15, 2006
	11-12.2	April 1, 2008
	11-13	June 1, 2004
	11-13.1	April 1, 2006
	11-14, 11-14.1	February 8, 2005
	11-14.2	November 25, 2003
	11-15	June 1, 2004

<b>Remove:</b>	11-16, 11-16.1 11-17, 11-18 11-18.1, 11-18.2 11-19 through 11-23 11-24 11-25	January 12, 2007 June 1, 2004 August 5, 2009 February 8, 2005 March 17, 2006 June 1, 2004
<b>Replace:</b>	<b>Related rules</b> 1-3, 1-4 5-6, 5-7, 5-7.1 5-13 through 5-16 9-13.1, 9-14 9-19 14-8, 14-9, 14-10 15-3, 15-7 16-5 <b>Entire Rule 10</b> <b>Entire Rule 11</b> 10-1 through 10-19 11-1 through 11-17 11.A.-1	December 29, 2009

**PLEASE INSERT IN YOUR RULE BOOK AS SOON AS POSSIBLE. THANK YOU.**

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 reinstatement 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 effective January 1, 2010; Rules Revision Memo 42C)

Disabled individual:

An individual who (1) has a physical or mental impairment which substantially limits one or more major life functions; or (2) has a record of such impairment; or (3) is regarded as having such an impairment; or (4) has begun or successfully completed a supervised drug rehabilitation program and is no longer engaged in the illegal use of drugs. (Eff. 1/1/93; Rules Rev. 160B).

Disqualification:

An involuntary no-fault separation of an employee, or action in lieu thereof, based on a legal, physical, mental or emotional impairment or incapacity, occurring or discovered after appointment, which prevents satisfactory performance of the duties and responsibilities of the position. (Eff. 3/15/79; Rules Rev. 110A).

Documented performance:

A verifiable assessment of an individual's work performance, including PEPR ratings, disciplinary actions, and safety violations. (Eff. 3/19/2004, Rule Rev. 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. (Eff. 3/16/95; Rules Rev. 178, Series B).

Effective date:

The date when a personnel action takes effect; in the case of separation, the employee's last day of work, exclusive of accrued vacation leave or compensatory time. (Eff. 5/16/56; Rules Rev. 16A).

Employment appointment:

One which is made as the result of certification from an employment list. (Effective September 18, 1980; Rules Revision Memo 127A).

Employment probationary status:

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

Entry level professional class:

Any class where the principal minimum qualifications for education and experience are a college degree and no experience. These are identified as entry level by the word "staff" as part of the title. (Effective September 1, 1989; Rules 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; Rules 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 Career Service to be the prevailing practice in the Denver metropolitan area. (Revised effective January 1, 2010; Rules Revision Memo 42C).

Section 5-60 Effect of Employment Status on Employee Rights, Privileges and Benefits.  
(Effective November 1, 1980; Rules Revision Memo 127A)

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

An employee in employment probationary status:

1. May be terminated or demoted at any time;
2. May not appeal any decision relating to his or her employment, including termination, except on the grounds of alleged discrimination or violation of the City's "Whistleblower Protection" ordinance;
3. Is entitled to accumulate leave in accordance with Rule 10 **PAID LEAVE**, except that such employee shall not be entitled to take vacation leave until completion of probation or completion of six (6) months of continuous service, whichever comes first (Revised effective January 1, 2010; Rules Revision Memo 42C);
4. Is entitled to disability leave in accordance with Rule 11 **UNPAID AND EXTENDED LEAVE** (Revised effective January 1, 2010; Rules Revision Memo 42C); and
5. Is entitled to such other rights, privileges, and benefits as set forth in these Rules.

### 5-62 Employees in Career Status

An employee in career status:

1. May be disciplined or dismissed only for cause, in accordance with Rule 16, **DISCIPLINE**;
2. May file a grievance or appeal for any reason specified in Rule 18 **DISPUTE RESOLUTION** or Rule 19 **APPEALS**;
3. Is entitled to the full benefit of leave provisions in accordance with Rule 10 **PAID LEAVE** (Revised effective January 1, 2010; Rules Revision Memo 42C);
4. May earn merit increases in accordance with Rule 9 **PAY ADMINISTRATION**; (Effective September 1, 1989; Rules Revision Memo 129B)
5. Is entitled to lay-off protection specified in Rule 14 **SEPARATIONS OTHER THAN DISMISSAL** except for employees appointed to limited positions after January 16, 2004; (Revised March 19, 2004; Rules Revision Memo 247B);
6. May receive re-instatement appointments as provided in Career Service Rule 14-40, re-assignments, transfer appointments or demotion appointments without serving a new probationary period; (Revised March 19, 2004; Rules Revision Memo 247B);
7. May have continuous service credits earned prior to lay-off restored if such employee (a) is reinstated within two (2) years immediately following the lay-off; or (b) is reemployed within two (2) years after being laid off and is still on the reinstatement list (Effective December 18, 1980; Rules Revision Memo 01, Series B); and
8. Is entitled to such other rights, privileges and benefits as set forth in these Rules.

### 5-63 Employees in Promotional Probationary Status

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

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



5-64 Employees in Non-Career Status

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

An employee in non-career status:

1. May be terminated at any time;
2. May not appeal any decision relating to his or her employment, including termination, except on the grounds of alleged discrimination or violation of the City's "Whistleblower Protection" ordinance;
3. May promote to a higher level class if qualified in accordance with these rules;
4. May be re-assigned or transferred to another position in a class with the same job rate; and
5. May demote to another position, if qualified.

5-65 Employees in Trainee or Intern Probationary Status:

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

An employee in trainee or intern probationary status:

1. May be terminated or demoted at any time;
2. May not appeal any decision relating to his or her employment, including termination, except on the grounds of alleged discrimination or violation of the City's "Whistleblower Protection" ordinance;
3. Is entitled to accumulate and take leave in accordance with Rule 10 **PAID LEAVE** (Revised effective January 1, 2010; Rules Revision Memo 42C);
4. Is entitled to disability leave in accordance with Rule 11 **UNPAID AND EXTENDED LEAVE** (Revised effective January 1, 2010; Rules Revision Memo 42C);
5. May promote to a higher level class if qualified in accordance with these rules;
6. May be re-assigned or transferred to another position in a class with the same job rate; and
7. May demote to another position, if qualified.

7. Reassignment shall not be to a position that constitutes a promotion. However, this does not preclude an employee from applying for promotion positions within the merit system.
8. Reassignment is only available to current employees and is not available to applicants.
9. Reassignment is limited to existing vacant positions or to positions that become vacant in the Career Service within the three-month time period.
10. The department or agency shall take all necessary steps to train the reassigned employee in the duties of the position reassigned, as it would do with any new employee.
11. A reassignment to an employee cannot be denied because he or she is designated as a probationary or temporary employee. However, a probationary or temporary employee must have performed the essential job functions, with or without reasonable accommodation, before being eligible for reassignment. (Effective April 1, 2006; Rules Revision Memo 6C)
12. Disabled Classified Service employees (police officers and fire fighters) are eligible to seek reassignment to a vacant Career Service position as a form of reasonable accommodation, if they cannot be reasonably accommodated in their Classified Service positions. Should a Classified Service employee with a disability be reassigned to a vacant Career Service position as a form of reasonable accommodation, the employee will no longer be a Classified Service employee, but instead will be a new Career Service employee. Under this circumstance, the employee will be entitled to the pension given to Career Service employees after the appropriate number of years of service for vesting within the Career Service system. The employee is not entitled to retroactive vesting for this pension for his or her years of service as a Classified Service employee. This Rule does not prohibit the employee from purchasing service credits subject to procedures established by the Denver Employees Retirement Plan. The employee's sick and vacation days that he or she accrued as a Classified Service employee will not be carried over to the new Career Service position; however, the employee will be given monetary payment for such leave upon separating from the Classified Service, in accordance with the Police or Fire Department's rules and regulations and collective bargaining agreement then in effect. The employee shall accrue paid time off as a new Career Service employee. (Revised effective January 1, 2010; Rules Revision Memo 42C)

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

G. Interactive process leave

During the interactive process, if an employee is unable to perform his or her existing job, the employee may use any available paid time off, sick leave, vacation leave, compensatory leave, donated sick leave, and the employee's personal holiday. If no such paid leave is available to the employee, he or she shall be provided with authorized leave without pay during the interactive process. (Revised effective January 1, 2010; Rules Revision Memo 42C)

H. Retaliation and Coercion

1. It is a violation of this rule to discriminate against any individual because that individual has opposed any act or practice prohibited by this rule or because that individual filed a grievance or appeal, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing to enforce any provision contained in this rule.
2. It is a violation of this rule to coerce, intimidate, threaten, harass or interfere with any individual in the exercise or enjoyment of, or because that individual aided or encouraged any other individual in the exercise of, any right granted or protected by this rule (including, but not limited to, making a request for a reasonable accommodation).

I. Confidentiality and Record keeping

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

1. Supervisors, managers, human resources personnel and other City employees involved in the interactive process may obtain access to such information on a need to know basis.
2. Supervisors, managers, human resources personnel and other appropriate City employees may be informed regarding necessary restrictions on the work or duties of an employee and necessary accommodations.
3. First-aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.
4. Information may be given to the state workers' compensation offices, and state second injury funds, in accordance with the state workers' compensation laws.

### Section 5-90 Dual Incumbency

(Effective May 4, 2007, Rule Revision Memo 18C)

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

### Section 5-100 Dual Employment

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

#### 5-101 Charter Provisions

Section C5.13 of the Denver City Charter provides: 'Except as otherwise herein provided, no officer or employee shall hold or enjoy any other public office or public employment for which he is paid any compensation. Notwithstanding the provisions of any other section of this Charter, any elected officer may serve upon the governing board or body of any public body or of any municipal or quasi-municipal corporation within which or part of which the City and County of Denver, or a part thereof is located, or of which the City and County of Denver is an interested or constituent member, and if he be the appointing officer, may appoint himself thereto, so long as such elected officer, in either event, waives compensation for such additional service; provided, however, that the prohibitions of this section concerning incompatibility of office and conflicts of interest shall be in full force and effect with respect to such service. Any employee or officer, other than an elective officer may, subject to the requirements of this section, likewise serve upon such governing board or body, and receive compensation therefor, or may be employed by any other governmental jurisdiction or agency and receive compensation therefor. No officer or employee shall become surety on the official bond of any other officer or employee.

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

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

#### 5-102 Policy.

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

- A. Since a position is by definition an aggregate of duties to be performed by one (1) person, an employee may occupy only one (1) full-time position.
- B. An employee may occupy more than one (1) part-time position, more than one (1) on-call position, or a combination of part-time and on-call positions provided that the total time worked does not exceed the equivalent of a full-time position. (Effective December 18, 1980; Rules Revision Memo 02, Series B)

#### Section 5-110 Compliance With the Immigration Reform and Control Act of 1986

(Effective May 21, 1987; Rules Revision No. 96, Series B)

#### 5-111 Policy

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

#### 5-112 New Hires

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

#### 5-113 Installation

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

#### 5-114 When Documents Required

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

#### 5-115 Penalty

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

2. a. An employee exempt from overtime shall be paid at the straight time hourly rate for each hour worked that was related to the emergency. Interrupted work hours during a City-wide emergency count as time worked and exempt employees eligible for overtime in accordance with 9-93 Overtime Exceptions will be compensated for hours beyond forty (40).
- b. City-wide emergency pay may be paid in either cash or compensatory time off, at the discretion of the appointing authority. Compensatory time may be taken at any time mutually convenient to the employee and the appointing authority. All accrued compensatory time shall be used by March 31<sup>st</sup> of each calendar year or paid in cash by the final pay period in April of that year. (Revised effective January 1, 2010; Rules Revision Memo 42C)
3. Employees who were on other leave such as paid time off, vacation, compensatory time, sick, or leave without pay must use that leave unless called back to work. When called back to work, unused leave hours are returned to the banks and work hours are counted. (Revised effective January 1, 2010; Rules Revision Memo 42C)
4. Employees who telecommute must have prior written approval to telecommute from their appointing authority or designee. The written approval shall include the employee's assignment while telecommuting. An employee must demonstrate that he or she accomplished the assignment in accordance with the written approval.

#### Section 9-80 Special Work Schedules

- A. Deviations from the standard workweek, eight (8) hour work-day or designation of special work schedules may be made so long as they are in accordance with the provisions of this subsection. The appointing authority must provide written notification to the Personnel Director of any change to the standard workweek or the designation of special work schedules for employees.
- B. Establishment:
  1. When the work program of a department or agency is such that the interests of the City as well as the efficiency of the organization can better be served by a special work schedule, the appointing authority may establish one for specified units, individual employees, or the entire agency.
  2. Employees affected by the proposed schedule should be consulted concerning their preferences prior to the establishment of the special work schedule, and their wishes should be recognized wherever possible. The final determination shall be within the discretion of the appointing authority.

3. When an appointing authority determines that the special work schedule has not served the best interests of the City, the appointing authority may discontinue the special work schedule and shall provide written notification to the Personnel Director.

C. Ten hour schedule:

Under a ten hour schedule, employees are scheduled to work ten (10) hours per day, four (4) days per work week. Days off shall be scheduled consecutively wherever possible, provided, however, that one of the three (3) days off may be scheduled on any day during the work week in order to prevent staff shortages on any workday.

D. Nine/eighty schedule:

Under a nine/eighty schedule, employees are scheduled to work nine (9) hours per day, four (4) days per work week, and four (4) hours on one day of the work week. The start and end date of the work week must be changed so that the work week does not contain more than forty (40) hours of scheduled work. This is accomplished by having the work week begin in the middle of the day on which the four (4) hour shift is scheduled, and end in the middle of that day a week later. This day is the flex day, upon which the employee will work eight (8) hours every other week, and will have off the rest of the time. Days off shall be scheduled consecutively wherever possible, provided, however, that the flex day may be scheduled on any day during the work week in order to prevent staff shortages on any workday.

E. Alternate work schedules:

The appointing authority may establish an alternate work schedule when neither the standard work week nor any of the special work schedules set forth in this subsection permit the department or agency to provide necessary services.

F. Holiday pay: (Effective March 4, 2009; Rules Revision Memo 36C)

In a week in which a holiday occurs, employees receive eight hours of holiday leave and are expected to work for thirty-two (32) hours. If the holiday falls on an employee's regularly scheduled work day and the work day is scheduled to be more than eight hours long, one of the following choices shall be selected by the employee, subject to approval by the appointing authority, to make up for the difference between the length of the work day missed and the eight hours of paid holiday leave allowed:

1. Hours may be deducted from the employee's administrative leave granted for exemplary performance, earned compensatory time, earned paid time off, or earned vacation leave. Employees serving a probationary period after employment appointment shall be entitled to use earned vacation leave for this purpose only, upon completion of one (1) calendar month of service (Revised effective January 1, 2010; Rules Revision Memo 42C);
2. The employee may work additional hours within the work week; or
3. The employee may take the hours as leave without pay.

2. How paid: Earned overtime compensation for employees in hourly positions shall be paid in cash.

9-101 Holiday Compensatory Time for Overtime Exempt Employees:

An employee who is exempt from overtime and who is:

- A. Scheduled to work on a holiday, or
- B. Scheduled to work on his or her regularly scheduled day off in a week when a holiday occurs

Shall be given straight time holiday compensatory time off for the holiday in addition to pay for the time worked. At the discretion of the appointing authority, straight time pay may be substituted for the holiday compensatory time. Holiday compensatory time may be taken at any time mutually convenient to the employee and the appointing authority. However, all accrued holiday compensatory time shall be used by March 31<sup>st</sup> of each calendar year or paid out in cash by the final pay period of April of that year. (Revised effective January 1, 2010; Rules Revision Memo 42C)

Section 9-110 Record Keeping

(Revised effective April 1, 2008; Rule Revision Memo 26C)

- A. Responsibility for maintaining time and compensation records may be vested in the Department of Finance, the Career Service Authority ("CSA"), or the agencies, as may be agreed among them from time to time.
- B. The content of these records shall be governed by guidelines established by CSA (see Appendix).
- C. These records shall be retained for a minimum of six (6) calendar years, in a location where they would be available for inspection within seventy-two (72) hours from the date when requested by the Wages and Hours Administrator or designees.



- (2) If the Career Service Authority (“CSA”) determines that the demotion or separation is in lieu of layoff, it will place the employee's name on the appropriate reinstatement 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 Eff. 3/19/04, Rule Rev. 247B; Eff. 4/1/06; Rule Rev. 7C)

#### 14-46 Notice of Lay-Off

- A. Layoff planning: Layoff planning, including actions in lieu of layoff, is the responsibility of the appointing authority. However, the CSA 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 layoff is given in accordance with paragraph 14-46 c) Thirty-day notices, a written lay-off plan for the lay-off unit shall be submitted to CSA and shall have been audited and approved in writing by the Career Service Personnel Director (“Personnel Director”) for conformance to Section 14-40 Lay-Off of the Personnel Rules, including all subsections thereof. (Revised Eff. 3/19/04, Rule Rev. 247B)
- C. Thirty-day notices: The appointing authority shall give final notice of lay-off to affected employees a minimum of thirty (30) calendar days before the effective date of the lay-off. A copy of each such notice shall be sent to the CSA. The period of time shall be computed in accordance with sub-paragraph 19-22 a) 2). (Effective April 1, 1982; Rules Revision Memo 348; Revised Eff. 3/19/04, Rule Rev. 247B)

#### 14-47 Effect on Leave

(Revised effective January 1, 2010; Rules Revision Memo 42C)

- A. Compensatory time and vacation leave: An employee shall be paid for all eligible leave and compensatory time credits in accordance with Rule 9 **PAY ADMINISTRATION** and Rule 10 **PAID LEAVE**.
- B. Sick leave: Pay for eligible sick leave credits and restoration of the balance of sick leave credits upon re-instatement shall be in accordance with Rule 10 **PAID LEAVE**.

#### 14-48 Re-employment, Re-instatement, and Promotional Re-instatement Rights

(Effective May 4, 2007, Rule Revision Memo 18C)

- A. Re-employment or re-instatement appointments: The ability of a former unlimited employee, or limited employee appointed to their position before January 16, 2004, who was laid off, to be re-employed or re-instated are set forth in Rule 3 **SELECTION**.

- B. Promotional re-instatement appointment: The rights of an employee, who was given a demotional appointment in lieu of lay-off, to be re-instated are set forth in Rule 3 **SELECTION**.

#### 14-49 Appeal

An employee who is laid off or who is demoted in lieu of layoff may appeal the action in accordance with Rule 19 **APPEALS**.

### Section 14-50 Resignation

#### 14-51 Voluntary Resignation

- A. Notice to supervisor: It is the responsibility of an employee who plans to resign in good standing from the career service to notify his immediate supervisor in advance as follows:

1. At least ten (10) calendar days for employees in full-time or part-time unlimited positions.
2. At least four (4) calendar days for employees in full time or part-time limited positions.
3. At least one (1) calendar day for employees in on call positions.

The appointing authority may waive this requirement for good and sufficient reasons.

- B. Payment for Accrued Vacation Leave and Compensatory Time:  
(Revised effective January 1, 2010; Rules Revision Memo 42C)  
Employees who resign shall receive payment for all accrued paid time off, vacation leave and compensatory time for which they are eligible according to the provisions of Rule 9 **PAY ADMINISTRATION** and Rule 10 **PAID LEAVE**.

- C. Acts Comprising Resignation of Incumbents in On Call Positions:

The following acts of incumbents in on-call positions shall be interpreted as resignations:

1. Failure to inform a supervisor within two (2) calendar weeks of the date of a change of an address or a telephone number.
2. Failure to respond within ten (10) calendar days of a date of mailing of an official communication requiring a response.

3. Failure to respond to three (3) consecutive requests to work, provided that at least three (3) calendar weeks have elapsed between the first request and the last request.

If any of the grounds specified in the preceding paragraphs is found to exist, the employee shall be deemed to have resigned, and the supervisor shall advise the CSA in writing of the resignation, specifying the grounds.

- D. Abandonment of position: An employee shall be deemed to have abandoned his or her position if the employee fails to report for his or her assigned shift and fails to notify his or her immediate supervisor of the absence prior to the start of his or her shift for three (3) consecutive work days. This situation shall be termed "job abandonment." The required signature of the employee on the resignation shall be waived. Instead, the appointing authority shall file a statement indicating that the conditions of this paragraph have been met.

14-52 Re-employment  
(Effective May 4, 2007, Rule Revision Memo 18C)

Employees who resign may be eligible for re-employment according to the provisions of Rule 3 **SELECTION**.

Section 14-60 Retirement  
(Effective May 4, 2007, Rule Revision Memo 18C)

Any employee in the Career Service may retire, at his own or her request, when he or she meets the eligibility requirements of the Denver Employees Retirement Plan.

Section 14-70 Change in Type of Separation

When additional facts are revealed that substantially alter the basis for the original decision as to type of separation, the type of separation may be changed. The Personnel Director, upon receipt of a written request together with documentation of the reasons for the change, will approve or disapprove the requested change in writing. Only the appointing authority who signed the personnel action form separating the employee, or his successor shall be authorized to request a change in the type of separation. A copy of the Personnel Director's written approval shall be attached to the personnel action form which shall show under remarks the type of change and the reason for the change.

and/or resources in connection with campaign or other political activities. City resources include, but are not limited to, telephones, e-mail, fax machines, interoffice mail, voice mail, photocopiers and office supplies.

Section 15-40 Private Practice of Attorneys  
(10/20/83, 50B)

15-41 Policy

Private law practice by attorneys of the Department of Law is prohibited, except as herein provided. Attorneys of the Department of Law shall not accept a forwarding fee or a referral fee.

15-42 Scope

These provisions apply to all attorneys of the Department of Law, except special counsel retained pursuant to Section A10.5 of the Charter of the City and County of Denver.

15-43 Pro Bono and Family Practice Exception

Attorneys of the Department of Law may handle legal matters involving pro bono activities or legal matters involving the attorney personally or his or her parents, spouse, child, brother, sister, grandchild, or grandparent subject to all of the following conditions:

- A. The attorney receives no compensation for work performed;
- B. The attorney has submitted a written request stating the reasons for this exception to the City Attorney and has received written approval from the City Attorney;
- C. Any pro bono work shall be done during off-duty hours, while on paid or unpaid leave. (Revised effective January 1, 2010; Rules Revision Memo 42C)

Section 15-50 Outside Employment  
(3/22/84, 60B)

15-51 Policy

Any employee desiring to take outside employment or engage in other business activities must submit a written request to his or her appointing authority before the outside employment or business activities commence. The appointing authority will not approve outside employment that compromises an employee's ability to perform effectively or to accept overtime or travel assignments. Outside employment or business activities shall not be incompatible with an employee's duties, nor shall the outside employment or business activities create an actual or apparent conflict of interest.

Violation of the outside employment policy can lead to corrective action, up to and including dismissal.

### 15-93 Representation

The representative of an employee, including officers and business agents of unions or other associations to which an employee belongs, shall be given the same rights to speak on behalf of the employee during any type of meeting with the employee's supervisor or manager as would be given the employee.

### 15-94 Counseling Employees During Working Hours

A representative of an employee organization may visit an employee during working hours if the representative obtains the permission of the employee's immediate supervisor and such visitation does not interfere with the work of the agency.

### 15-95 Designation of Representative

- A. Employees shall identify, in writing, agents to represent them in presenting a grievance or appeal.
- B. No employee may be compelled to act as the representative of another employee.

### 15-96 Representing Employees During Working Hours

If the representative is also a City employee, he or she shall be allowed to take up to a maximum of four (4) hours of approved administrative leave per pay period and use any accrued paid time off, vacation leave or compensatory time, or to take leave without pay to represent employees. Such leave shall not adversely impact the agency or department and must be approved in advance. (Revised effective January 1, 2010; Rules Revision Memo 42 C)

## Section 15-100 Harassment and/or Discrimination

### 15-101 Policy

It is the policy of the Career Service Board that all employees have a right to work in an environment free of discrimination and unlawful harassment. The City maintains a strict policy prohibiting discrimination, sexual harassment and harassment because of race, national origin, sexual orientation, physical or mental disability, age, gender, marital status, military status, religion, political affiliation, or any other basis protected by federal, state, or local law or regulation. All such harassment or discrimination is unlawful. The Career Service Board's anti-harassment policy applies to all persons involved in the operation of the City and prohibits unlawful harassment or discrimination by any employee of the City, including supervisors and co-workers. Unlawful harassment in any form, including verbal, physical, and visual conduct, threats, demands, and retaliation is prohibited.

### 15-102 Types of Harassment

Unlawful harassment because of race, national origin, sexual orientation, physical or mental disability, age, gender, marital status, military status, religion, political affiliation, or any other basis protected by federal, state, or local law or regulation,

- N. 1. Intimidation or retaliation against an individual who has been identified as a witness, party, or representative of any party to any hearing or investigation relating to any disciplinary procedure, or any violation of a city, state, or federal rule, regulation or law, or against an employee who has used the dispute resolution process in good faith.
- N. 2. A determination by the Career Service Board or Hearing Officer that the employee has violated the City's "Whistleblower Protection" ordinance. (Revised effective October 2, 2007; Rules Revision Memo 22C)
- O. Failure to maintain satisfactory working relationships with co-workers, other City employees, or the public.
- P. Conviction of or being charged with a crime. Prior to imposing discipline under this subsection, the department or agency shall follow the guidelines contained in subsection 16-61.
- Q. Failure to report charges or convictions of crimes as required by Rule 15 **CODE OF CONDUCT**. (Revised effective June 12, 2006; Rules Revision Memo 10C)
- R. Discrimination or harassment of any employee or officer of the City because of race, color, religion, national origin, sex, age, political affiliation, sexual orientation or disability. This includes making derogatory statements based on race, color, religion, national origin, sex, age, political affiliation, sexual orientation or disability. Discipline for this prohibited conduct does not have to rise to the level of a violation of any relevant state or federal law before an employee may be disciplined and the imposition of such discipline does not constitute an admission that the City violated any law.
- S. Unauthorized absence from work; or abuse of paid time off, sick leave or other types of leave; or violation of any rules relating to any forms of leave defined in Rule 10 **PAID LEAVE** or Rule 11 **UNPAID AND EXTENDED LEAVE**. (Revised effective January 1, 2010; Rules Revision Memo 42C)
- T. Reporting to work after the scheduled start time of the shift.
- U. Unauthorized performance of work by non-exempt employees outside of the established work schedule.
- V. Failure to use safety devices or failure to observe safety regulations which: results in injury to self or others; jeopardizes the safety of self or others; or results in damage or destruction of City property.
- W. Engaging in a strike, sabotage, or work slowdown.
- X. Divulging confidential or otherwise sensitive information to unauthorized individuals.
- Y. Conduct which violates the Rules, the City Charter, the Denver Revised Municipal Code, Executive orders, or any other applicable legal authority.
- Z. Conduct prejudicial to the good order and effectiveness of the department or agency, or conduct that brings disrepute on or compromises the integrity of the City.

Page issuance date: December 29, 2009

Effective date: January 1, 2010

**RULE 10  
PAID LEAVE**

(Effective January 1, 2010; Rules Revision Memo 42C)

Purpose statement:

The purpose of this rule is to provide guidelines and policies for administering the City's paid leave programs.

Section 10-10 Definitions

- A. Leave: Any absence during regularly scheduled work hours. The following types of paid leave are officially established and shall be in effect unless otherwise provided by ordinance:
1. Paid time off ("PTO") including bereavement;
  2. Sick and vacation including bereavement;
  3. Common implementation sections for PTO and sick and vacation including donated leave;
  4. Military;
  5. Election;
  6. Court;
  7. Holiday;
  8. Investigatory;
  9. Training;
  10. Compensatory;
  11. Administrative;
  12. Occasional time off.
- B. Immediate family: Husband, wife, son, daughter, mother, father, grandmother, grandfather, grandchildren, brother, sister, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, domestic partner, and the mother, father, son, daughter, brother, or sister of the domestic partner, as well as minor children for whom the employee or the employee's domestic partner provide day-to-day care and financial support.

Section 10-15 Designees

Appointing authorities, including the Career Service Personnel Director (“Personnel Director”), may delegate any authority given to them under this rule to a subordinate employee.

Section 10-20 Paid Time Off

<b>SUMMARY OF THE PAID TIME OFF ORDINANCE</b>
<b>1. Eligibility</b>
Covered employees:  A. Career Service employees hired or re-hired after December 31, 2009.  B. Career Service employees who elected to convert from receiving sick and vacation leave to receiving PTO.
Excluded employees:  A. Part-time employees who are regularly scheduled to work less than twenty (20) hours per week;  B. Persons occupying or employed in on-call, temporary, or seasonal positions, or positions in which the incumbent is paid according to the community rate schedule; and  C. Employees who hold positions in classifications in the Undersheriff pay schedules.
<b>Source: D.R.M.C. §18-123</b>
<b>THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.</b>



**SUMMARY OF THE PAID TIME OFF ORDINANCE - continued**

**2. Conversion to PTO**

A. Employees who were receiving paid sick and vacation leave on December 31, 2009 and who otherwise continue to remain eligible may elect to receive PTO benefits instead of paid sick and vacation leave. In order to receive PTO benefits, such employees must provide written notice of this election to the Department of Finance on or before February 1, 2010.

B. Employees who elect to participate in the PTO plan must convert their existing sick and vacation leave banks into a special leave bank. The employee shall convert one hundred (100) percent of his or her existing vacation leave plus a maximum of fifty (50) percent of his or her existing sick leave into PTO, which shall be deposited in a special leave bank. The amount of PTO in the special leave bank cannot exceed four hundred (400) hours. Any excess sick leave shall be forfeited. The amount of existing sick and vacation leave to be converted shall be the amount of leave earned as of January 31, 2010.

C. The PTO balance in an employee's special leave bank shall not be replenished. PTO subsequently earned by an employee shall be deposited in his or her PTO bank. PTO used by an employee shall be debited from the employee's PTO bank first unless that bank has been exhausted or if the employee requests that the special leave bank be used first.

**Source: D.R.M.C. §18-124**

**3. Earning PTO**

	Years of consecutive service				
	0 < 0.5	0.5 < 5	5 < 10	10 < 15	≥ 15
<b>Paid time off earned per month</b>	10	12	15	18	19

A proportionate amount shall be allowed eligible employees working part-time.

**Source: D.R.M.C. §18-125**

**4. Limits on PTO accumulation**

PTO may not be accumulated in excess of four hundred (400) hours.

**Source: D.R.M.C. §18-127 (a)**

**THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES  
AND IS NOT CONSIDERED A PART OF THE RULES.**

10-21 Partial Leave Accruals

Full-time employees, eligible to earn PTO:

- A. Who begin employment with the City after the first day of a month; or
- B. Who separate from employment with the City before the last day of a month

Shall earn PTO in that particular month according to the following pro-ration schedule:

<b>Hrs. worked (including pd. lv) in the month</b>	<b>Years of service</b>				
	<b>≤ 0.5</b>	<b>0.5 &lt; 5</b>	<b>5 &lt; 10</b>	<b>10 &lt; 15</b>	<b>≥15</b>
<b>0-39</b>	0	0	0	0	0
<b>40-79</b>	2.5	3	3.75	4.5	4.75
<b>80-119</b>	5	6	7.5	9	9.5
<b>120-139</b>	7.5	9	11.25	13.5	14.25
<b>&gt;140</b>	10	12	15	18	19

**PTO hours earned**

10-22 Situations Where Approval of PTO Use is not Required

An employee may use PTO without requesting the approval of the employee's appointing authority when the employee is incapacitated by sickness or injury; for necessary care and attendance during sickness of a member of the employee's immediate family, and for qualifying conditions under the Family and Medical Leave Act ("FMLA"). Such use shall be subject to reporting and investigation requirements set forth in this Rule 10.

10-23 All Other PTO Uses

- A. All other uses of PTO require the approval of the employee's appointing authority.
- B. Appointing authorities shall approve such requests to use PTO on the basis of the work requirements of the agency after conferring with employees and recognizing their wishes where possible. Preference in the scheduling of pre-approved PTO shall be given to employees in order of their total length of continuous employment in the Career Service; provided, however, that an employee who has been re-instated or re-employed following a lay-off shall be given credit for the period of continuous employment in the Career Service prior to the lay-off.

C. Exceeding the PTO Accumulation Limit:

An appointing authority may not defer an employee's use of PTO to the extent that the employee will lose earned PTO. If the appointing authority is unable to allow an employee who has accumulated the maximum hours of PTO to use any of those hours because of workload, the appointing authority shall submit and the Personnel Director shall approve an emergency request to exceed the maximum amount. The employee must use the excess over four hundred (400) hours in the employee's PTO bank within one year of the approval date.

<b>SUMMARY OF THE PAID TIME OFF ORDINANCE -continued</b>
<b>5. Bereavement leave</b>
Employees who receive PTO benefits shall be entitled to use up to forty (40) hours of paid bereavement leave because of the death of a member of the employee's immediate family. This forty (40) hours of bereavement leave shall not count against the employee's PTO bank.
<b>Source: D.R.M.C. §18-128</b>
<b>THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES</b>

10-24 Bereavement Leave

An appointing authority may, in addition to the forty (40) hours of bereavement leave permitted by ordinance, grant additional PTO, or may allow an employee receiving PTO to use other paid or unpaid leave because of unusual circumstances connected with the death of a member of the employee's immediate family.

<b>SUMMARY OF THE PAID TIME OFF ORDINANCE -continued</b>
<b>6. Effect of separation on PTO balance</b>
Upon separation from the City, an employee shall be paid at his or her regular rate of pay for the unused portion of his or her accumulated PTO.
<b>Source: D.R.M.C. §18-127 (b)</b>
<b>THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES</b>

Section 10-30 Sick and Vacation Leave

<b>SUMMARY OF SICK AND VACATION LEAVE ORDINANCES</b>				
<b>1. Eligibility</b>				
<p>Career Service employees who were receiving paid sick and vacation leave on December 31, 2009; who remain continuously employed by the City; and who have not voluntarily elected to receive PTO benefits, shall be entitled to continue to receive paid sick and vacation leave so long as the employee does not become:</p> <p>A. A part-time employee who is regularly scheduled to work less than twenty (20) hours per week;</p> <p>B. A person occupying or employed in on-call, temporary, or seasonal position, or position in which the incumbent is paid according to the community rate schedule; and</p> <p>C. An employee who holds a position in a classification in the Undersheriff pay schedules.</p> <p><b>Source: D.R.M.C. §18-131</b></p>				
<b>2. Earning vacation and sick leave</b>				
<b>Years of consecutive service</b>				
	<b>0 &lt; 5</b>	<b>5 &lt; 10</b>	<b>10 &lt; 15</b>	<b>≥15</b>
<b>Vacation hrs. earned per month</b>	8	10	12	14
<b>Sick hours earned per month</b>	8	8	8	8
<p>A proportionate amount shall be allowed eligible employees working part-time.</p> <p><b>Source: D.R.M.C. §18-132</b></p> <p style="text-align: center;"><b>THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.</b></p>				

10-31 Partial Leave Accruals

Full-time employees, eligible to earn vacation and sick leave:

- A. Who begin employment with the City after the first day of a month; or
- B. Who separate from employment with the City before the last day of a month.

Shall earn vacation and sick leave in that particular month according to the following pro-ration schedule:

<u>Hrs. worked (including pd. lv) in the month earned</u>	<u>Vacation hours earned</u>				<u>Sick hrs.</u>
	<u>Years of service</u>				
	0 < 5	5 < 10	10 < 15	>15	N/A
<b>0-39</b>	0	0	0	0	0
<b>40-79</b>	2	2.5	3	3.5	2
<b>80-119</b>	4	5	6	7	4
<b>120-139</b>	6	7.5	9	10.5	6
<b>≥140</b>	8	10	12	14	8

<b>SUMMARY OF SICK AND VACATION LEAVE ORDINANCES -continued</b>
<b>3. Limits on sick leave accumulation</b>
Sick leave may be accumulated to a limit of nine hundred sixty (960) working hours. When the accumulation exceeds eight hundred eighty (880) working hours, an employee may request that accumulated sick leave in excess of the eight hundred eighty (880) working hours be converted to vacation leave. Such conversions are in addition to the monthly amount of vacation leave allowed by ordinance. Employees may not convert sick leave to vacation leave if such a conversion would result in the employee's accumulated vacation leave exceeding the limits allowed by the Career Service Rules.
<b>Source: D.R.M.C. §18-132 (a)(2)</b>
<b>THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.</b>

10-32 Limits on Vacation Leave Accumulation

Employees with up to ten (10) years of service may accumulate up to two hundred eighty-eight (288) hours of vacation leave. Employees with ten (10) or more years of service may accumulate up to three hundred thirty-six (336) hours of vacation leave.

10-33 Using Sick Leave

Sick leave may be used when an employee is incapacitated by sickness or injury; for medical examinations, or treatment; for necessary care and attendance during sickness, or for death, of a member of the employee's immediate family, for qualifying conditions under the FMLA and as otherwise provided in these rules.

<b>SUMMARY OF SICK AND VACATION LEAVE ORDINANCES -continued</b>
<b>4. Granting vacation leave</b>
A. An eligible employee who has served in a City position for less than six (6) months shall not be paid for any accumulated vacation leave. Employees with more than six (6) months of service may use accumulated vacation leave.  <b>Source: D.R.M.C. §18-134 (b)</b>
B. Vacation leave shall be taken at a time convenient to the appointing authority, provided that, every eligible employee shall be granted vacation leave during each twelve (12) month period of employment except where a deferment, not to exceed an additional twelve (12) months, is required for the good of the service.  <b>Source: D.R.M.C. §18-132 (b)(2)</b>
<b>THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.</b>

10-34 Granting Vacation Leave

A. Appointing authorities shall grant leave on the basis of the work requirements of the agency after conferring with employees and recognizing their wishes where possible. Preference in the scheduling of vacation time shall be given to employees in order of their total length of continuous employment in the Career Service; provided, however, that an employee who has been reinstated or reemployed following a layoff shall be given credit for the period of continuous employment in the Career Service prior to the layoff.

B. Exceeding the Vacation Leave Accumulation Limit:

An appointing authority may not defer an employee's use of vacation leave to the extent that the employee will lose earned vacation leave. If the appointing authority is unable to allow an employee who has accumulated the maximum hours of vacation leave to use any of it because of workload, the Personnel Director shall approve an emergency request by the appointing authority to exceed the maximum amount. The employee must use the excess over two hundred-eighty-eight (288) hours or three hundred thirty-six (336) hours, whichever applies, within one year of the approval date.

10-35 Bereavement Leave

Employees receiving sick leave shall be entitled to use up to forty-eight (48) hours of sick leave because of the death of a member of an employee's immediate family. An appointing authority may grant additional sick leave, or may allow an employee to use other paid or unpaid leave because of unusual circumstances.

<b>SUMMARY OF SICK AND VACATION LEAVE ORDINANCES -continued</b>		
<b>5. Effect of separation on sick and vacation leave balances</b>		
A. Sick leave		
The following table applies to the pay-out of sick leave upon separation for any reason other than death or retirement:		
<b>Full years Of service</b>		<b>Payout formula</b>
<b>&lt;5</b>	No pay out	
<b>5</b>	Sick leave balance minus	(5 X 40 hrs.) or 200 hrs.
<b>6</b>	Sick leave balance minus	(6 X 40 hrs.) or 240 hrs.
<b>7</b>	Sick leave balance minus	(7 X 40 hrs.) or 280 hrs.
<b>8</b>	Sick leave balance minus	(8 X 40hrs.) or 320 hrs.
<b>9</b>	Sick leave balance minus	(9 X 40hrs.) or 360 hrs.
<b>≥10</b>	Sick leave balance minus	(10 X 40hrs.) or 400 hrs.
Upon separation due to retirement or death, an employee shall be paid at his or her regular rate of pay for one-half (1/2) of all accumulated sick leave credits existing on the effective date of separation or death, or in accordance with the method described above, whichever is higher, but not to exceed five hundred sixty (560) working hours.		
<b>Source: D.R.M.C. §18-134 (a)</b>		
B. Vacation leave		
An eligible employee who has served in a city position for less than six (6) months shall not be paid for any accumulated vacation leave. Employees with more than six (6) months of service shall be paid at his or her regular rate of pay for the unused portion of his or her accumulated vacation leave upon separation from employment.		
<b>Source: D.R.M.C. §18-134 (b)</b>		
<b>THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.</b>		

Section 10-40 Administration of Paid Time Off and Sick and Vacation Ordinances

<b>SUMMARY OF THE PAID TIME OFF AND SICK AND VACATION ORDINANCES</b>
<b>1. Effect of appointment to another City position:</b>
When an employee is appointed to a Career Service position from any other City department or agency which is governed by the PTO ordinance or the sick and vacation ordinance, the employee's paid leave credits shall be transferred into the new place of City employment, provided that the entrance on duty in the new position immediately follows the separation from the former position.
<b>Source: D.R.M.C. §18-126 &amp; §18-133</b>
<b>THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.</b>

10-41 Length of Service

In computing length of service for the purpose of determining an employee's PTO or vacation leave accrual rate, service in a position in any City department or agency other than the Classified Service of Police and Fire, the Denver Water Board, on-call positions, and contact positions, shall be counted as service, provided such service was performed continuously, immediately prior to the employee's employment or re-employment appointment to the Career Service.

10-42 Effect of Appointment to Another Career Service Position

When an employee is appointed to one Career Service position from another, the employee's accumulated PTO or sick and vacation leave shall be transferred to the new position.

10-43 Using Paid Leave

- A. The amount of PTO or sick and vacation leave used shall be the amount of time an employee is scheduled to work when the leave is used.
- B. PTO or sick and vacation leave shall not be used before it is posted to the employee's account.
- C. Use of PTO or sick and vacation leave shall not affect eligibility for a merit increase or merit payment.



#### 10-44 Reporting and Investigation of Sick Leave

- A. If an employee is absent for reasons that entitles the employee to use PTO without appointing authority approval, or sick leave, the employee or a member of the employee's household shall notify the employee's supervisor as soon as possible but at least within two (2) hours after the employee's usual reporting time. Appointing authorities may establish reporting procedures which differ from the standard for an entire agency, for specific units, or for individual employees in order to meet special program needs or work loads.
- B. If an employee fails to notify the employee's supervisor or agency head, no PTO or sick leave shall be authorized, except in unusual circumstances, to be determined by the appointing authority.
- C. Appointing authorities may investigate the alleged illness of an employee using PTO without appointing authority approval, or sick leave. False or fraudulent use of PTO or sick leave shall be cause for disciplinary action and may result in dismissal.
- D. An employee who is using PTO or sick leave for more than three (3) days because of his or her own illness or that of a member of his or her immediate family may be required to furnish a statement signed by attending physician, or other proof of illness satisfactory to the appointing authority. An appointing authority may require this statement or proof for an absence chargeable to PTO without appointing authority approval, or sick leave, of any duration. If an appointing authority has reason to believe that the absence may be a qualifying event under the FMLA, the FMLA medical certification requirements shall apply.

#### 10-45 Donated Leave

- A. Donating Leave:
  - 1. A Career Service employee may donate sick leave to another Career Service employee provided that the employee donating sick leave:
    - a. Has been earning sick leave from the City continuously for the last five years; and
    - b. Retains a sick leave balance of at least two hundred forty (240) hours after the donation.
  - 2. A Career Service employee may donate PTO to another Career Service employee provided that the employee donating PTO retains a PTO balance of at least eighty (80) hours after the donation.

3. A Career Service employee may donate PTO or sick leave to a non-Career Service City employee provided that the recipient employee's department or agency and any applicable collective bargaining agreement allow employees to receive donations of leave from Career Service employees and provided that the applicable donor requirements have been met.
4. A Career Service employee may donate PTO or sick leave to, or receive donated sick leave from, an employee covered by the Undersheriff pay schedule to the extent permitted by the applicable collective bargaining agreement and provided that the donor and recipient requirements applicable to the non-Undersheriff employee have been met.

B. Recipient requirements:

1. Before an employee can receive donated leave, the employee (or the employee's representative) must provide notice to the Department of Finance that the employee anticipates a need for donated leave. Such notice shall estimate how much donated leave the employee expects to use in the current calendar year. Should the employee need more donated leave beyond the original estimate, the employee shall provide notice of this to the Department of Finance before the employee can receive additional donations.
2. In order to use donated leave, an employee must:
  - a. Have exhausted his or her accumulated compensatory time, leave and vacation leave or PTO, be absent from work and;
    - i. Be receiving disability leave, or temporary disability benefits under the provisions of the Workers' Compensation Act. In either of these situations, the employee may only use donated leave to make up the difference between the employee's base salary, and the total of other paid leave received and the temporary disability benefits the employee is receiving;
    - ii. Be receiving FMLA leave;
    - iii. Be receiving interactive process leave; or
    - iv. Have received written notice of a pre-disqualification meeting. The employee may use donated leave until disqualification occurs or until the end of the period in which a decision on disqualification must be issued, whichever occurs first.

**or**

- b. Have elected to substitute donated leave for unpaid parental involvement leave.
  - 3. Donated leave can be used to cover absences that occur up to fifteen (15) calendar days before the leave was posted to a recipient's account so long as the other conditions of this section have been met.
  - 4. A Career Service employee may receive donated leave from a non-Career Service City employee provided that the donor employee's department or agency allows employees to donate leave to Career Service employees and that the recipient requirements listed above have been met.
  - 5. Employees who are eligible to receive donated leave may receive either donated PTO or donated sick leave regardless of whether the employee is enrolled in the PTO or sick and vacation leave plan.
- C. Employees cannot use more than six hundred (600) hours of donated leave in a calendar year. Employees cannot receive donated leave to the extent that the donated leave will increase the employee's PTO or sick leave bank over the applicable maximum accumulation limit.
- D. 1. The amount of donated leave to be credited to the recipient's account shall be computed as follows:
- a. Multiply the number of hours of leave being donated by the hourly rate of pay of the donor employee;
  - b. Divide the result by the hourly rate of pay of the recipient; and
  - c. Round the result down to the closest full hour.
2. The computations made in paragraph D.1. shall be reported to the Department of Finance in accordance with procedures to be established by that office.
- E. Recipients of donated leave are not entitled to receive pay upon separation for unused donated leave. Unused donated leave may not be donated to another employee or returned to the donor.

10-46 Effect of Separation on Leave Accrual

Employees shall not earn PTO or sick and vacation leave after the effective date of the employee's separation. Rule 1 **DEFINITIONS**, Rule 14 **SEPARATION OTHER THAN DISMISSAL** and Rule 16 **DISCIPLINE AND DISMISSAL** define the effective dates of dismissals and other types of separations.

<b>SUMMARY OF THE PAID TIME OFF AND SICK AND VACATION ORDINANCES - continued</b>
<b>2. Re-instated employees</b>
<p>Employees who were laid off while receiving paid sick and vacation leave benefits, and are re-instated under the Career Service Rules after December 31, 2009, will be enrolled in the PTO plan unless they elect in writing to continue to receive sick and vacation leave. Such election must be made within thirty (30) days of the effective date of the re-instatement.</p> <p><b>Source: D.R.M.C. §18-123 (c)</b></p> <p style="text-align: center;"><b>THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.</b></p>

10-47 Effect of Re-instatement and Re-employment on PTO and Sick Leave Balance

An employee who is re-instated after a lay-off shall have sick leave that he or she was not paid for at the time of separation restored as follows:

- A. Employees who are enrolled in the PTO plan upon re-instatement may be able to convert sick leave that was lost at the time of lay-off to the special PTO bank. The amount that may be converted is based on the employee's accumulated sick leave at the time of separation. Up to one-half of this amount may be converted to the special PTO bank;
  - 1. So long as the amount converted does not exceed four hundred (400) hours, and
  - 2. After the sick leave the employee was paid for at the time of separation is deducted from this amount.
- B. Employees who elect to receive sick and vacation leave after re-instatement shall have all sick leave that he or she was not paid for at the time of separation restored to the employee's sick leave bank.
- C. An employee who is re-employed while his or her name is on a re-instatement list shall also be entitled to restoration of eligible sick leave under the terms of this sub-section.

Section 10-50 Other Paid Leave

10-51 Paid Military Leave

- A. All probationary and career status employees in the Career Service shall be eligible for up to fifteen (15) days, but not to exceed one hundred twenty (120) hours of paid military leave each calendar year for the time the employee is engaged in military training or service.

- B. Notification Requirement: Employees engaged in military service or training requiring military leave shall provide notice in advance to their appointing authority, when possible. If the employee is unable to provide advance notice because of military necessity, the employee may give notice after starting duty.
- C. Employees who continue in military service beyond the time for which paid military leave is allowed shall be placed on unpaid military leave, which is covered by Rule 11 **UNPAID AND EXTENDED LEAVE**.

#### 10-52 Election Leave

Employees who are eligible to vote in an election are entitled to use up to two (2) hours of paid election leave for the purpose of voting during the time the polls are open, if an employee's work hours on the day of an election are such that there are less than three (3) hours between the time of opening and the time of closing of the polls during which the employee is not required to be on the job. Employees must request and receive approval for the leave prior to the election day. The appointing authority may specify the hours during which the employee may be absent, except that the employee shall be allowed to take the election leave at the beginning or end of the work shift if requested. (Source: C.R.S. §1-7-102).

#### 10-53 Court Leave

- A. An employee shall be granted paid court leave during time the employee is regularly scheduled to work, if the employee is:
  - 1. Required to serve as a juror in a court of law;
  - 2. Subpoenaed to testify in court of law or administrative proceeding concerning matters arising out of the course of his or her employment; or
  - 3. Requested to serve as a witness in a court of law or administrative proceeding by his or her appointing authority or other authorized person to represent the City's interest in the legal proceedings.
- B. Court leave is intended only to apply to those time periods when the employee is needed for court service and for reasonable travel time between court and work.
- C. In order to receive court leave, an employee who is called for jury duty or to serve as a witness shall present the original summons or subpoena from the court to his or her supervisor and, at the conclusion of such duty, a signed statement from the Clerk of the Court or other evidence showing the actual time of attendance at court.
- D. Fees received for jury service in a Federal, State, or Municipal court shall be in addition to, and irrespective of, an employee's regular salary.

<b>SUMMARY OF THE HOLIDAY ORDINANCE</b>
<b>1. Eligibility:</b>
Excluded employees:  A. Part-time employees who are regularly scheduled to work less than twenty (20) hours per week;  B. Persons occupying or employed in on-call, temporary, or seasonal positions, or positions in which the incumbent is paid according to the community rate schedule; and  C. Employees who hold positions in classifications in the Undersheriff pay schedules.  <b>Source: D.R.M.C. §18-141</b>
<b>2. Paid holidays</b>
A. New Year's Day (January 1);  B. Martin Luther King Day (third Monday in January);  C. Washington's Birthday (third Monday in February);  D. Cesar Chavez Day (last Monday in March);  E. Memorial Day (last Monday in May);  F. Independence Day (July 4);  G. Labor Day (first Monday in September);  H. Veterans' Day (November 11);  I. Thanksgiving Day (fourth Thursday in November);  J. Christmas Day (December 25);  K. Personal holiday (one (1) personal holiday on a date agreed upon by the employee and the City to be used within the calendar year).  <b>Source: D.R.M.C. §18-142</b>
<b>THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.</b>

<b>SUMMARY OF THE HOLIDAY ORDINANCE - continued</b>
<b>3. Observation of holiday</b>
<p>A. If any of the holidays listed above falls on a Sunday, then the following Monday shall be considered as the holiday. If any of the holidays listed above falls on a Saturday, then the preceding Friday shall be considered as the holiday.</p> <p>B. An employee may be required to work on a holiday in order to maintain essential services to the public.</p> <p><b>Source: D.R.M.C. §18-143</b></p> <p style="text-align: center;"><b>THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.</b></p>

10-54 Holiday Leave

- A. An eligible full-time employee shall receive eight (8) hours of paid holiday leave in a week in which a holiday occurs.
- B. An eligible part-time employee regularly scheduled to work at least twenty (20) hours per week shall receive paid holiday leave as follows:
  - 1. An employee who is regularly scheduled to work from twenty (20) to twenty-nine (29) hours per week shall receive four (4) hours of paid holiday leave.
  - 2. An employee who is regularly scheduled to work from thirty (30) to thirty-nine (39) hours per week shall receive six (6) hours of paid holiday leave.
- C. When a holiday falls on an employee's regular day off, it shall be observed as follows:
  - 1. If the holiday falls on the first day off, it shall be observed on the preceding workday.
  - 2. If the holiday falls on the second or third regular day off, it shall be observed on the next workday.
- D. Unless otherwise provided in Rule 11 **UNPAID AND EXTENDED LEAVE**, an eligible employee must be at work or on an authorized, paid leave on the scheduled workdays immediately preceding and immediately following the day on which the holiday is observed in order to receive paid holiday leave.
- E. Religious or other holidays not observed by the City may be granted in accordance with the rules governing paid and unpaid leave.

- F. The appointment or separation of an employee shall not be effective on a holiday unless it is a scheduled workday for the employee.

#### 10-55 Investigatory Leave

An appointing authority may place an employee on paid investigatory leave pending an investigation of a possible rule violation or failure to meet standards of performance as provided in Rule 16 **DISCIPLINE AND DISMISSAL**. Investigatory leave may be for no more than forty-five (45) calendar days, unless an extension of time has been approved by the Personnel Director.

#### 10-56 Training Leave

- A. Appointing authorities may grant paid training leave. Any training program for which such leave is granted must be job-related, which includes career development training that will prepare the employee for advancement with the City.
- B. Appointing authorities may grant training leave for the purpose of attending institutes, seminars, or educational courses related to an employee's work for extended periods of time, at the appointing authority's discretion.
- C. Appointing authorities shall allow trainees or interns to arrange their work schedule if they need to attend classes during normal working hours. Trainees or interns are not entitled to training leave while attending classes for the degree or certificate program they are required to complete during their trainee or intern probationary period.
- D. Use of training leave by employees shall be arranged whenever possible during regularly scheduled work hours. Appointing authorities who require attendance at training activities during off-duty hours that are designed to increase the competencies, knowledge, skills and abilities of employees for the position which they presently occupy shall temporarily change the affected employee's standard work hours to include the training schedule. Employees who are required to attend such training during off-duty hours shall be granted paid training leave for the time spent in training.
- E. For the purposes of this subsection, on-line training courses shall be treated the same as classroom training sessions.
- F. Employees must present proof of attendance at any training for which they are authorized to receive training leave.

#### 10-57 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 31<sup>st</sup> of each calendar year or paid out in cash by the final pay period of April of that year.



#### 10-58 Administrative Leave

- A. Appointing authorities shall grant paid administrative leave for the following purposes:
1. To present grievances or appeals to an official of the City or to represent an employee presenting a grievance or an appeal. However, if flexibility exists as to the exact date and time, the leave shall be granted at the convenience of the appointing authority;
  2. To participate in the Career Service Authority alternative dispute resolution program. Administrative leave shall be granted to employees who participate in mediation either as a party or as the mediator and to an employee who attends mediator training; or
  3. To represent another City employee at meetings with that employee's supervisor or manager, as set forth in Rule 15 **CODE OF CONDUCT**. The representative shall be allowed to take up to a maximum of four (4) hours of administrative leave per pay period so long as the use of such leave does not adversely affect the representative's department or agency and has been approved in advance.
- B. Appointing authorities may grant paid administrative leave for the following purposes:
1. To compete for positions in the Career Service, including all related interviews and examinations;
  2. To reward exemplary performance, such as Employee of the Quarter, Employee of the Year, or if the appointing authority wishes to recognize an employee's outstanding contribution to the agency. The appointing authority may grant, and an employee may use up to twenty (20) hours of administrative leave per calendar year for exemplary performance; or
  3. When the appointing authority deems there is a business necessity, for a maximum of ten (10) calendar days per calendar year. The appointing authority may request an extension of up to twenty (20) calendar days from the Personnel Director. The Personnel Director may approve the request for an extension for good cause shown.

Granting or failing to grant administrative leave under this subsection B shall not be subject to grievance or appeal.

- C. Approved administrative leave shall not affect eligibility for a merit increase or merit payment.

#### 10-59 Occasional Time Off

Exempt employees may be allowed paid occasional time off to attend to personal affairs, at the discretion of the appointing authority.

**RULE 11**  
**UNPAID AND EXTENDED LEAVE**  
(Revised effective January 1, 2010; Rules Revision Memo 42C)

Purpose statement:

The purpose of this rule is to provide guidelines and policies for administering time off through the City's leave programs.

Section 11-10 Definitions

- A. Leave: Any absence during regularly scheduled work hours. The following types of unpaid and extended leave are officially established and shall be in effect unless otherwise provided by ordinance:
1. Military;
  2. Leave without pay;
  3. Unauthorized;
  4. Disability;
  5. Parental involvement;
  6. Family Medical Leave ("FMLA").

Section 11-15 Designees

Appointing authorities, including the Career Service Personnel Director ("Personnel Director"), may delegate any authority given to them under this rule to a subordinate employee.

(Sections 11-20 through 11-40 reserved for future use)

## Section 11-50 Military Leave Without Pay

- A. Employees who continue in military service beyond the initial one hundred twenty (120) hours for which paid military leave is allowed under Rule 10 **PAID LEAVE** shall be placed on unpaid military leave.
- B. This rule is intended to comply with and be interpreted consistently with the Uniformed Services Employment and Reemployment Rights Act ("USERRA"). To the extent an issue is not addressed in this rule, or to the extent this rule is inconsistent with the USERRA, the USERRA and its corresponding regulations shall govern.
- C. A career status or probationary employee who continues in military service beyond the time for which leave with pay is allowed shall be placed on military leave without pay. Such request for military leave without pay shall be made in advance, when possible, in writing or by oral notification. In the event of military necessity, if the employee is unable to provide advance notice, the employee may give notice after starting duty.
- D. An employee in military leave without pay status may be eligible for a military pay differential. A military pay differential is for employees who are called to active military duty with written orders for services exceeding one hundred and seventy nine (179) days because of war or national emergency.

### 11-51 Granting Military Leave Without Pay

Military leave without pay shall be subject to the following provisions:

A. Duration:

Military leave without pay shall be granted for the duration of active military service not to exceed five (5) years plus ninety (90) days from the date of discharge, provided that extensions shall be granted where the employee is required to serve a longer period of time involuntarily because of a war or national emergency.

B. Effect on paid time off, sick and vacation leave:

Paid time off ("PTO"), sick and vacation leave credits shall not be earned during military leave without pay that lasts over thirty (30) consecutive calendar days.

C. Effect on health & supplemental benefits:

During military leave without pay, the employer continues to subsidize an employee's group health care benefits for up to thirty (30) days. Employees absent on military leave without pay for thirty-one (31) days or longer, are eligible for health benefit coverage from the military. In addition, an employee on military leave without pay for thirty-one (31) days or longer can arrange to continue his or her individual and/or family coverage under the City's group health plan for the duration of military leave without pay. Employees opting for continuing coverage under the City's group health plan are responsible for paying 100% of the premium costs.

During military leave without pay, the employee can arrange to continue supplemental insurance coverage(s), such as dental, vision, short-term disability, and supplemental life insurance, for the duration of military leave without pay. Employees opting for continuing supplemental insurance coverage are responsible for paying 100% of the premium costs.

D. Break in service:

Military leave without pay shall not constitute a break in service.

E. Completion of probationary period:

An employee who returns after thirty (30) days or longer from military leave without pay who held employment probationary status at the time of military leave without pay shall have attained career status upon returning to the City.

F. Effect on eligibility for a merit increase:

Military leave without pay shall not affect eligibility for a merit increase.

11-52 Return From Military Leave Without Pay

Employees returning from military leave without pay after an absence of ninety (90) days or less shall return to their former position. Employees returning after ninety-one (91) days or longer shall return to their former position or a job of equal status and pay that the employee would have attained with performance ratings of "Successful" had he or she not been on leave, subject to the following provisions:

A. Due date for notice of return:

The notice time for return from military leave without pay that is provided to the appointing authority is dependent upon the amount of time served.

1. The employee must make notice for return from military leave without pay within ninety (90) days from the date of discharge from military service if the military duty lasted longer than one hundred eighty (180) days.
2. Employees who served thirty-one (31) to one hundred eighty (180) days shall give notice within fourteen (14) days of discharge.
3. Employees who serve less than thirty-one (31) days shall have three (3) days from discharge to give notice.

B. Certificate of satisfactory completion of military service:

A return from military leave without pay shall be conditional upon submission of a certificate of satisfactory completion of military service.

C. Effect of hospitalization for service connected medical condition:

In the event that the employee was hospitalized after discharge for medical conditions, which occurred during the military service, the employee's military leave without pay shall be extended not to exceed two (2) years. Application for return from military leave without pay must be made within ninety (90) days after discharge from hospitalization. Extensions may be granted due to circumstances beyond the employee's control.

D. Qualifications for return from military service:

The employee must be physically and mentally qualified and possess the necessary skills, knowledge and/or training to perform the essential functions with or without reasonable accommodations of the position to which the employee is returning. The City will provide appropriate training to returning employees.

E. Effect of service connected disability:

If the employee is not qualified to perform the essential functions with or without reasonable accommodations of the position left by reason of disability sustained during active military service, the appointing authority may transfer the employee to any other available position, the duties of which the employee is qualified to perform and which will provide like seniority, status and pay, or the nearest approximation thereof, as the employee achieved in the position from which he or she was granted military leave.

F. Effect of failure to give notice for return:

Failure to give notice for return from military leave without pay within the time limits stated shall be considered a resignation.

11-53 Military Pay Differential

- A. Career Service employees who are called to active military duty in time of war or national emergency are eligible for a military pay differential as provided by the Denver Revised Municipal Code. (See Appendix)
- B. A written request for military pay differential shall be made by an eligible employee to the employee's department or agency as soon as possible after the employee's return to City employment using the application form prepared by the Career Service Authority ("CSA"). Requests for military pay differential may also be made while the employee is on military leave.
- C. The employee shall provide copies of the following documents:
  - 1. Written military orders for reporting and/or discharge;
  - 2. Leave and earnings statements from the military;
  - 3. All military pay vouchers, including vouchers for temporary duty and travel; and
  - 4. Any other documentation deemed necessary to process the request by the Personnel Director, which may include documentation that the Department of Finance advises the Personnel Director is necessary.
- D. Any overpayment of funds to the employee shall be reimbursed to the City in accordance with the City's Fiscal Accountability Rules.

(Sections 11-60 through 11-70 reserved for future use)

## Section 11-80 Leave Without Pay

### 11-81 Policy

Leave without pay may be granted to an employee for any good cause when it is in the interest of the City and the employee to do so. An appointing authority may grant an employee leave without pay for up to ninety (90) days. The agency or department head may approve ninety (90) day extensions. Any appointment made to the position vacated by an employee on leave without pay shall be conditional upon the return of the employee on leave. If an employee's leave without pay is also designated as FMLA leave, the leave without pay and FMLA leave shall run concurrently.

### 11-82 Granting Voluntary Leave Without Pay

Voluntary leave without pay shall be subject to the following provisions:

#### A. Return

At the expiration of leave without pay, the employee shall return to the position he or she held prior to the leave. Failure to report promptly at the expiration of a leave without pay shall be considered a resignation.

#### B. Pay Increase and Fringe Benefits

##### FIRST 30 DAYS WITHOUT PAY

The first thirty (30) consecutive calendar days of voluntary leave without pay in a calendar year, which is approved by the employee's supervisor, shall have no effect on the following:

1. City contributions to health, dental, and life insurance; or
2. PTO, sick and vacation leave credits, and holiday eligibility.

##### AFTER 30 DAYS BUT BEFORE 180 DAYS

After the first thirty (30) consecutive calendar days of voluntary leave without pay, City contributions to health, dental, and life insurance shall be discontinued, except for FMLA leave:

Only employees on FMLA leave may pay for the cost of contributing the health care benefits, dental benefits, and life insurance by:

1. Depositing monthly, the employee's share of the premium for such benefits with the payroll clerk for the unit from which the employee is on leave or;

2. By taking at least one day of paid leave from which the cost of contributions to health, dental, and life insurance shall be deducted.

Failure to contribute to the cost of the benefits or insurance shall result in the discontinuance of such benefits or insurance consistent with the FMLA.

Employees on leave without pay who are not on FMLA leave may only maintain benefit coverage by depositing the full monthly premium for such benefits with the payroll clerk for the unit from which the employee is on leave.

#### AFTER 180 DAYS

After the first one hundred and eighty (180) consecutive calendar days of voluntary leave without pay, City contributions to health, dental, and life insurance shall be discontinued.

Employees on leave without pay for more than one hundred and eighty (180) consecutive calendar days may maintain benefit coverage by depositing the full monthly premium for such benefits with the payroll clerk for the unit from which the employee is on leave.

- C. No break in service: A leave without pay shall not constitute a break in service.
- D. During probationary period: Leave without pay for more than one hundred and eighty (180) consecutive calendar days during the probationary period shall not be counted as part of that period but the employee to whom such leave has been granted shall be allowed to complete his or her probationary period upon return from leave.
- E. Notification of CSA: The CSA shall be advised, in writing, of leave without pay granted for fifteen (15) consecutive calendar days or more.

#### 11-83 Budget Required Furlough

If the Mayor of the City and County of Denver decides to furlough employees within the Career Service due to budgetary reasons, the following Career Service Rule applies:

- A. This Rule is intended to comply with the Fair Labor Standards Act regulation 29 C.F.R. § 541.710, which permits furloughs for budgetary reasons without affecting the exemption status of an overtime exempt employee except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.
- B. Furloughs of overtime exempt employees may be taken in work day or workweek increments. During the workweek in which an overtime exempt employee takes one or more furlough days, the furlough hours taken and the hours worked plus any leave taken by the exempt employee should not total more than forty (40) hours. A work day is eight (8) hours for the purposes of this rule.



- C. Furloughs of non-exempt employees need not be taken in work day or work week increments but shall be debited in no less than two (2) hour increments.
- D. The Mayor may exempt certain employees of the Career Service from a mandatory furlough in order to maintain essential City services or for other necessary business reasons.
- E. At the expiration of the furlough, the employee shall return to the position held prior to the furlough.
- F. During the period of time in which the Mayor has declared mandatory furloughs, employees, upon the agreement and prior approval of their appointing authority, may take additional voluntary furlough days, up to a maximum of forty-five (45) voluntary furlough days. Employees are not required to take voluntary furlough days.
- G. Pay increases and employees benefits:  
  
A mandatory furlough or voluntary furlough shall have no effect on the following:
  - 1. Performance evaluations or merit increases;
  - 2. City contributions to health, dental and life insurance during the furlough period;
  - 3. PTO, sick and vacation leave credits accrued during the furlough period;  
or
  - 4. Holiday eligibility.
- H. Mandatory furlough or voluntary furlough shall not constitute a break in service. Failure to report promptly back to work after the expiration of a mandatory furlough or voluntary furlough may be grounds for discipline, up to and including dismissal from employment.
- I. During the period of time in which there are mandatory furloughs, the first forty-five (45) days of unpaid FMLA or ADA Interactive Process Leave shall be treated as voluntary furlough days.
- J. Nothing herein precludes the mayor from designating specific furlough days or otherwise determining how to implement mandatory furloughs.

## Section 11-90 Unauthorized Absence for Non-exempt Employees

- A. Non-exempt employees: A non-exempt employee who is absent from duty without approval shall receive no pay for the duration of the absence. Such denial of pay shall not affect the right of the City or any of its agencies to invoke any form of disciplinary action which it deems appropriate, up to and including dismissal.
- B. Exempt employees: Subject to the exceptions provided below, an employee need not be paid for any work week in which he or she performs no work.
1. The pay of exempt employees shall be reduced, on an hourly basis, for absences of less than a day when the absence is due to sickness or personal reasons, and
    - a. The employee did not request leave; or
    - b. A request for leave was denied; or
    - c. The employee has no available leave; or
    - d. The employee requested, and was granted, leave without pay.
  2. Exempt employees may be allowed occasional time off with pay to attend to personal affairs, at the discretion of the appointing authority.

(Sections 11-100 through 11-110 reserved for future use)

## Section 11-120 Disability Leave

### 11-121 Revised Municipal Code Provisions

- A. The Revised Municipal Code provides that under certain conditions and after compliance with certain requirements "...eligible employees shall be granted disability leave with pay for a period not to exceed ninety (90) calendar days."
- B. Compensation during disability leave shall be eighty percent (80%) of gross salary.

### 11-122 Policy

All Career Service employees, except employees holding on-call positions, shall be granted disability leave with pay for each occupational injury or occupational disease incurred in the course of employment, provided that the period of disability exceeds three (3) calendar days. If an employee's disability leave is also designated as FMLA leave, the disability leave and FMLA leave shall run concurrently.

#### 11-123 Eligibility for Disability Leave

An employee shall be considered eligible for disability leave if such employee:

- A. Type of Position: Holds a full-time or part-time position but not an on-call position.
- B. Compliance with Ordinance: Has complied with the provisions of Sec. 18-287 of the Revised Municipal Code, 1982 codification, relating to reporting requirements and to examination and emergency treatment by the Employee's Medical clinic.
- C. Disability: Is physically or mentally unable to perform the duties of the employee's position or any other position within the City and County of Denver due to injury, occupational disease or accident experienced in the course of employment.

#### 11-124 Granting of Disability Leave

Appointing authorities shall grant disability leave to eligible employees in accordance with the following provisions:

- A. Authority for disability leave pay: For absence in excess of three (3) calendar days, allowance of a claim for temporary disability benefits under the provisions of the Workmen's Compensation Act or the Occupational Disease Disability Act shall constitute authority for disability leave pay for a period of ninety (90) calendar days retroactive to the first day of disability.
- B. Notification of injury: Every employee who sustains an injury in the course of his employment shall notify his supervisor within two (2) days of its occurrence, unless:
  - 1. The employee is physically or mentally unable to do so; or
  - 2. Someone else reports the accident within the specified time limit; or
  - 3. The supervisor or person in charge has actual notice of the injury.

If an employee fails to report an injury, he shall lose one (1) day's disability leave for each days failure to so report; the number of penalty days established by the representative of the State Compensation Insurance Fund or Division of Labor shall constitute the number of disability leave days lost for late reporting.

For absences of three (3) calendar days or less and for penalty days deducted from disability leave because of late reporting, the employee may use other paid or unpaid leave if eligible under the terms of these rules.

- C. Reimbursement to City for advances on benefits: Temporary disability benefits due the employee from the Workers Compensation Fund for the duration of the disability leave shall be deposited to the credit of the City.
- D. Required physical examination: Any employee on disability leave may be required to report to Denver General Hospital for periodic physical examinations. Compliance with such requirements shall be a condition for the continuation of an approved disability leave with pay. An employee shall report to Denver General Hospital for a physical examination prior to being returned to work from disability leave.
- E. Effect of reduced or disallowed claims: No disability leave with pay shall be granted If the employee's claim for temporary workers compensation benefits has been disallowed or reduced under the terms of the state laws cited above, except as provided In paragraph 11-124 B. Notification of Injury. In the instance listed above, an employee absent from duty may use other paid or unpaid leave if eligible under the terms of these rules.

#### 11-125 Expiration of Disability Leave

An employee who continues to be disabled beyond the maximum disability leave of ninety (90) calendar days may use his accrued PTO, sick leave and vacation leave at full benefits In addition to the temporary disability compensation he receives from the Workmen's Compensation Fund.

Disability leave shall not be granted beyond the date of mandatory retirement of an employee.

#### 11-126 Paid Time Off, Sick and Vacation Leave During Disability Leave

Employees who are granted disability leave shall continue to accrue PTO, sick and vacation leave credits for the duration of the disability leave.

#### 11-127 Procedure for Disability Leave

A personnel action placing the employee on disability leave and its estimated duration shall be submitted to the CSA immediately upon notification of allowance of a claim for temporary disability benefits under the laws cited above. Upon return of the employee to work or expiration of the disability leave, a personnel action returning the employee from leave shall be submitted.

## Section 11-130 Parental Involvement Leave

It is the policy of the Career Service Board to provide leave for academic activities as required under the Parental Involvement in K-12 Education Act (C.R.S. §8-13.3-101 et seq.).

### A. Definitions

1. Academic activity: Means:
  - a. A parent-teacher conference; or
  - b. A meeting related to any of the following topics;
    1. Special education services;
    2. Response to intervention;
    3. Dropout prevention;
    4. Attendance;
    5. Truancy; or
    6. Disciplinary issues.

School activities not included on the list above, including, but not limited to athletic or artistic events, are not considered to be academic activities for the purposes of this rule.

2. Academic year: Means the period, not to exceed twelve (12) consecutive months, allotted by a school for the completion of one grade level of study.
3. Eligible employee: Includes all Career Service employees.
4. Eligible employee's child: Means a child who is enrolled in a public school, private school, or in a non-public home-based educational program, in any grade between kindergarten and twelfth grade, for whom the eligible employee is parent, legal guardian, or is acting in the place of a parent.

### B. Amount of leave allowed: Eligible employees are entitled to use parental involvement leave in an academic year to attend academic activities for or with the eligible employee's child as follows:

1. Full-time eligible employees are entitled to use eighteen (18) hours of parental involvement leave in an academic year.
2. Part-time eligible employees are entitled to use a percentage of the eighteen (18) hours of parental involvement leave that corresponds to the percentage of a forty (40) hour work week that they are regularly scheduled to work.

C. Notification requirements:

1. An employee shall provide the department or agency with notice of the need for leave at least seven (7) calendar days in advance of the academic activity. Such notice shall include written verification from the school or school district of the academic activity.
2. In the case of an emergency where the employee is not aware of the need for leave seven (7) calendar days in advance, the employee shall provide the department or agency with notice of the leave as soon as possible after becoming aware of the academic activity. Written verification shall be provided upon the employee's return to work.

D. Limitations on use

1. An employee shall make a reasonable attempt to schedule academic activities outside of regular work hours.
2. Eligible employees are not entitled to use more than six (6) hours of parental involvement leave in any one-month period. A department or agency may require that parental involvement leave be taken in no longer than three (3) hour increments.
3. A department or agency may limit the ability of an eligible employee to take parental involvement leave in cases of emergency, or where a person's health or safety may be endangered, or where the absence of the employee would result in a halt of service or production.

E. Substitution of paid leave: Parental involvement leave is unpaid leave, unless an eligible employee elects to substitute PTO, sick leave, donated leave, vacation leave or other accrued paid leave for unpaid parental involvement leave.

(Section 11-140 reserved for future use)

## Section 11-150 Family & Medical Leave Act Policy

It is the policy of the Career Service Board to provide leave under the Family & Medical Leave Act of 1993 ("FMLA") to eligible employees. The purpose of FMLA leave is to provide up to twelve weeks of job-protected leave in a twelve-month period to eligible employees for specified immediate family and medical reasons. This rule is intended to comply with and be interpreted consistent with the FMLA and its corresponding regulations. To the extent an issue is not addressed herein, the FMLA and its corresponding regulations shall govern.

### 11-151 When Leave Under the Family & Medical Leave Act May be Used

FMLA leave shall only be available:

- A. For the birth and care of a newborn child of the employee (including a newborn child born into a domestic partnership);
- B. For placement with the employee or the employee's domestic partner of a child for adoption, foster care or legal guardianship;
- C. To care for an employee's immediate family member with a serious health condition; or
- D. To take leave when the employee is unable to perform the functions of the employee's job because of a serious health condition.

### 11-152 Eligibility for FMLA leave

Any employee who has been employed by the City for at least twelve (12) months and who has worked at least twelve hundred and fifty (1,250) hours in the twelve (12) months preceding the beginning of the leave shall be eligible for FMLA leave.

### 11-153 Requesting FMLA leave

- A. An employee may expressly request FMLA leave, or may merely state that he or she needs leave for a reason which the appointing authority knows is a qualifying reason for FMLA leave. In either instance, the appointing authority shall notify the employee that the leave may qualify as FMLA leave and request and provide information in accordance with this rule.
- B. In any situation where the need for FMLA leave is foreseeable, an employee shall provide thirty (30) days' notice or such notice as is practicable.
- C. In any situation where the need for FMLA leave is not foreseeable, the employee shall provide such notice as is practicable. Such notice may be provided by the employee or the employee's spokesperson if the employee is unable to do so personally. The employee or the employee's spokesperson will provide more information as required by the appointing authority when it can be readily accomplished as a practical matter.

- D. An employee requesting FMLA leave must provide to the appointing authority all information necessary to determine if such leave is appropriate, including:
1. The reasons for the leave so as to allow the appointing authority to determine if the conditions identified in 11-151 have been met.
  2. The anticipated start of the leave.
  3. The anticipated duration of the leave.
  4. Whether or not the employee has a spouse or domestic partner who is also an employee of the City and County of Denver.
  5. A health care provider certification on a form provided by the appointing authority consistent with the FMLA.

Information provided to the appointing authority regarding an employee's FMLA leave shall be maintained in a confidential file separate from the employee's personnel file.

- E. A request for FMLA leave which does not satisfy the conditions identified in 11-151 may be denied or delayed.
- F. A denial of a request for FMLA leave shall not preclude granting PTO or sick leave if the conditions identified in these rules are met.

#### 11-154 Use of FMLA leave

- A. No more than twelve (12) workweeks of FMLA leave may be used in any twelve (12) month period. The twelve (12) month period shall begin when FMLA leave was first used by an employee.
- B. FMLA leave shall be granted consecutively, intermittently or on a reduced leave schedule, as provided for under the FMLA. Provided, however, if an employee requests FMLA leave intermittently or on a reduced leave schedule after the birth or placement of a child for adoption, foster care or legal guardianship, such leave shall be granted if it is consistent with the reasonable operational necessity of the agency, as determined by the appointing authority.
- C. It is the appointing authority's responsibility to designate qualifying leave as FMLA leave and the appointing authority shall notify the employee of such designation and provide other required information about FMLA leave. An employee may not refuse to allow the appointing authority to designate qualifying leave as FMLA leave.



- D. FMLA leave is unpaid leave, unless an employee elects to substitute PTO, sick leave, donated leave, vacation leave or other accrued paid leave for unpaid FMLA leave. PTO, sick leave, donated leave, vacation leave or other accrued paid leave substituted for unpaid FMLA leave shall be counted against available FMLA leave.
- E. In the case where both spouses or domestic partners are employees, the amount of FMLA leave available shall be determined as follows:
  - 1. When the leave is because of birth, adoption, foster care or legal guardianship of a child, or serious health condition of a member of either employee's immediate family (other than a child, spouse or domestic partner), the FMLA leave available shall be the combined total of twelve (12) weeks of FMLA leave during any twelve (12) month period.
  - 2. When the leave is because of a serious health condition of either or both employees or a child, twelve (12) weeks of FMLA leave may be used by each employee in any twelve (12) month period.

#### 11-155 Secondary employment during FMLA leave

Appointing authorities may deny secondary employment during FMLA leave.

#### 11-156 Investigation of Use of FMLA leave

Appointing authorities may investigate the use of FMLA leave consistent with the FMLA, including by a requiring a second opinion and third opinion, if appropriate.. Misuse of FMLA leave may be cause for disciplinary action up to and including dismissal. An appointing authority may not discipline an employee for appropriate use of FMLA leave.

#### 11-157 Re-assignment

If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on the planned medical treatment for the employee or an immediate family member, or if the appointing authority agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption, foster care or legal guardianship, the appointing authority may require the employee to transfer temporarily, during the period the intermittent or reduce leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position.

#### 11-158 Maintenance of Benefits

- A. It shall be the responsibility of an employee on unpaid FMLA leave to provide that share of payment(s) necessary to maintain health insurance coverage as directed by the appointing authority.

- B. During any FMLA leave, the City must maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period.

11-159 Return from FMLA Leave

- A. An employee returning from FMLA leave due to his or her own serious health condition shall provide a certification from the employee's health care provider that the employee is able to resume work. An employee further may be required to report periodically on the employee's status and intent to return to work.
- B. An employee returning from FMLA leave shall be returned to the same position the employee held when leave began or to an equivalent position which is defined by the FMLA regulations as a position that is virtually identical to the employee's former position in terms of pay, benefits and working conditions.
- C. An employee need not be reinstated if the employee would not otherwise have been employed at the time reinstatement is requested.
- D. When an employee returning from FMLA leave is not qualified or able to perform the essential functions of the position to which the employee was returned, the employee shall be given a reasonable opportunity in which to become qualified or seek accommodation so long as such accommodation is required by and consistent with the Americans with Disabilities Act ("ADA").
- E. When an employee returning from FMLA leave is not able to perform the essential functions of the position to which the employee is returned, the appointing authority may disqualify the employee in accordance with Rule 14-20.

11-160 Additional information regarding the FMLA

Appointing authorities shall post information and otherwise provide information regarding the FMLA as required by the FMLA. In addition, information may be found on the United States Department of Labor's website, [www.dol.gov](http://www.dol.gov).

**APPENDIX 11.A.**

**Sec. 18-164. Military pay differential.**

**DENVER REVISED MUNICIPAL CODE**

(a) Employees in the career service and members of the classified service of the police and fire departments called to active military duty in time of war or national emergency are eligible for a military pay differential.

(b) The military pay differential is a benefit and not an entitlement, and applies only to employees in the career service and members of the classified service of the police and fire departments who are uniformed service members and who are called to active duty with written orders for military service exceeding one hundred seventy-nine (179) days in time of war or national emergency, and who are actually engaged in active military duty after December 31, 2005. A uniformed service member is defined as any member of the Army, Navy, Marines, Air Force, Coast Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, and Coast Guard Reserve, Army National Guard and the Air National Guard.

(c) The military pay differential shall consist of the difference between the total compensation received by the employee while engaged in active military service and the amount of base salary the employee would have earned from the city had the employee not been called to active duty. In no event shall the military pay differential, coupled with the employee's military compensation, exceed the base salary the employee would have received had the employee not been called to active duty and remained in his or her position of employment with the city.

(d) The manager of safety and the career service board shall establish written policies and procedures for administration of the military pay differential. The city attorney shall approve these policies and procedures prior to implementation.

(e) This section 18-164 is automatically repealed at 11:59 p.m. on December 31, 2010.

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