

MEMORANDUM

REVISION 44 SERIES C

TO: Holders of CSA Rule Books
FROM: Career Service Board
DATE: January 22, 2010
SUBJECT: Revision to Career Service Rules

The Career Service Board has approved the addition of a merit system definition to the Career Service Rules.

	<u>Page Number</u>	<u>Issuance Dates</u>
Remove:	2-1, 2-2 2-7 3-1 15-7 16-5 16-6, 16-9 19-1 19-2	December 23, 2005 May 3, 2006 May 4, 2007 December 29, 2009 December 29, 2009 February 28, 2006 October 2, 2007 December 29, 2007
Replace	2-1, 2-2, 2-2.1 2-7 3-1, 3-1.1 15-7 16-5, 16-6 16-9 19-1, 19-2	January 22, 2010

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

RULE 2
CAREER SERVICE AUTHORITY
(Effective December 23, 2005; Rules Revision Memo 1C)

Purpose statement:

The purpose of this rule is to establish how the Career Service Board (“Board”) will carry out its duties provided for under the authority of the City Charter and the Denver Revised Municipal Code.

Section 2-10 Career Service Board

2-11 Officers and Duties

A. Duties and Organization of the Board:

1. The five-member Board shall foster and maintain a merit-based personnel system for the Career Service and shall be committed to equal employment opportunity in accordance with the City Charter and the Denver Revised Municipal Code. The Board shall carry out all other duties delegated by the Denver Revised Municipal Code or ordinance.
2. The Board’s primary functions are to oversee the Career Service Authority (“CSA”), oversee the Career Service Hearing Office, and serve as a quasi-judicial body to decide appeals of decisions of the Career Service Hearing Officers (“Hearing Officers”).
3. The Board shall have two Co-Chairpersons who shall be elected on an annual basis from the members of the Board.

B. The Board is responsible for adopting, administering and enforcing rules necessary to foster and maintain this merit-based personnel system including, but not limited to rules providing:

1. For the conduct of competitive examinations of competence (Rule 3 **SELECTION**);
2. That appointments and promotions of employees in the Career Service shall be made on the basis of merit and ability (Rule 3 **SELECTION**);
3. For probationary periods (Rule 5 **APPOINTMENTS AND STATUS**);
4. For like pay for like work (Rule 7 **CLASSIFICATION**);
5. For the payment of generally prevailing compensation and benefits to Career Service employees (Rule 8 **COMPENSATION**);

6. For equal employment opportunity without regard to race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation or any other status protected by federal, state or local laws (Rule 15 **CODE OF CONDUCT**);
7. That dismissals, suspensions or disciplinary demotions of non-probationary employees in the Career Service shall be made only for cause, including the good of the service (Rule 16 **DISCIPLINE AND DISMISSAL**);
8. For grievance procedures (Rule 18 **DISPUTE RESOLUTION**); and
9. For appeals from actions of appointing authorities (Rule 19 **APPEALS**). (Revised effective January 22, 2010; Rules Revision Memo 44C)

C. Duties of the Co-Chairpersons:

1. One of the Co-Chairpersons shall preside at all meetings of the Board and each Co-Chairperson shall perform such other duties as may be assigned or delegated by the Board, but shall have no authority to act on behalf of the Board or in its name in any respect whatever except by special authorization of the Board. Such authorization shall be entered in the minutes of the Board meeting where such authorization was given.
2. The Co-Chairpersons may vote on all questions before the Board.
3. The Board shall designate, at its discretion, which Co-Chairperson shall have primary responsibility for presiding at Board meetings. In the absence of the Co-Chairperson assigned to preside, the other Co-Chairperson shall preside.
4. If neither Co-Chairperson is present, the remaining members of the Board shall designate a Chairperson pro tem.

D. Minutes and Record-Keeping:

1. The minutes of all meetings of the Board, and all correspondence, documents and files relating to the business of the Board shall be kept in accordance with applicable state and local records retention requirements.
2. The Career Service Personnel Director ("Personnel Director") shall be the official custodian of all such correspondence, documents and files.

E. Appointments:

The Board is responsible for appointing and overseeing the Personnel Director, Hearing Officers, and other appointees as allowed by the City Charter and Denver Revised Municipal Code.

2-12 Meetings

A. Quorum

Three members shall constitute a quorum at any meeting of the Board, provided, that no action or order of the Board shall be valid unless concurred in by at least three members of the Board.

B. Meetings:

1. The Board shall meet on the first and third Thursdays of the month, or as deemed necessary by the Board.
2. In addition, the Personnel Director may call special meetings of the Board when directed to do so by a Co-Chairperson or by two or more members of the Board or when the Personnel Director deems it necessary.
3. All meetings shall be public in accordance with the open meetings requirements of the Denver Revised Municipal Code, unless an executive session or private meeting is otherwise authorized.

C. Notice:

1. Advance notice of all public meetings of the Board shall be given in accordance with the open meetings requirements of the Denver Revised Municipal Code. Such notice shall be posted at least forty-eight (48) hours in advance of such meetings.
2. Such notice shall be posted in the public area of the CSA and on a bulletin board provided for such notices on the first floor of the City and County Building.

Section 2-40 Personnel Director

A. Powers and Duties

The Personnel Director shall serve at the pleasure of the Board, report directly to the Board, and perform all duties and responsibilities as directed by the Board, including those contained in the Rules, and as delegated by the Denver Revised Municipal Code. In addition, the Personnel Director's powers and duties are:

1. To interpret and enforce the Rules adopted by the Board in such a manner as to promote and maintain the principles of a merit-based personnel system and the just, speedy and effective resolution of disputes (Revised effective January 22, 2010; Rules Revision Memo 44C);
2. To prepare and hold examinations, pass upon qualifications of applicants, establish eligible lists and certify eligible applicants to appointing authorities to fill vacancies;
3. To establish and maintain a roster of all Career Service employees;
4. To establish and maintain such records, forms and procedures as necessary to control personnel transactions;
5. To consider suggestions from appointing authorities, the public, and employees or their representatives, pertaining to any phase of the personnel program;
6. To delegate to a designee such duties as, in his/her opinion are appropriate, unless otherwise specifically provided in these rules;
7. To administer the Tuition Refund Program in accordance with the Denver Revised Municipal Code; and
8. To perform such other duties as may be necessary to foster and maintain a merit-based personnel system for the Career Service, further equal employment opportunity, or otherwise ensure the efficient operation of CSA.

B. Normal Working Hours

The Personnel Director shall keep the office of CSA open for business from 8:00 a.m. to 5:00 p.m. Monday through Friday of each week, holidays excepted, unless good cause warrants a temporary or permanent change.

C. Acting Personnel Director:

1. When the Personnel Director is going to be absent for sixty (60) days or less, the Personnel Director shall designate a suitable and competent person as acting Personnel Director, unless the Board elects to designate one instead.
2. If the absence is going to be more than sixty (60) days, the Board shall designate an acting Personnel Director.

**RULE 3
SELECTION**

(Effective May 4, 2007; Rules Revision Memo 18C)

Purpose statement:

The Career Service Authority (“CSA”) administers a merit-based personnel system in which appointments and promotions of employees are made on the basis of merit and ability. Further, applicants and employees are entitled to equal employment opportunity without regard to race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation or any other status protected by federal, state or local laws. The purpose of the CSA selection process is to provide City departments and agencies with the best qualified employees, in accordance with the principles set forth in the City charter (See Appendix), by publicizing job opportunities, examining applicants, identifying those with the greatest merit and providing their names to the various departments and agencies for hire or promotion. (Revised effective January 22, 2010; Rules Revision Memo 44C)

Section 3-5 Definitions

- A. Certification: The act of providing an appointing authority with one or more lists of candidates eligible to be hired into a particular vacancy.

- B. Demotion: An appointment of an employee to a position in a classification in which the entry rate of the pay grade of the new classification is lower than the entry rate of the classification previously held.

- C. Eligible candidate: An applicant for a vacant position who meets the criteria required for placement on a list.

- D. Examination: The Career Service Board is authorized to adopt, administer and enforce rules concerning competitive examinations of competence by the City Charter (See Appendix). The CSA may give one or all of the following kinds of examinations:
1. Evaluation of experience and education;
 2. Written;
 3. Skill-based;
 4. Assessment interview; or
 5. Any other appropriate measures.
- E. Promotion: An appointment of an employee to a position in a classification in which the entry rate of the pay range for the new classification is higher than the entry rate of the pay range for the employee's current classification.
- F. Recruitment: The process by which CSA solicits individuals to apply for positions within the Career Service.
- G. Re-employment: An appointment of a former employee to a position in the classification in which the employee was previously employed within the preceding five (5) years, or to a successor classification; or to any classification for which the employee is qualified, with the same entry rate or a lower entry rate as the former classification, subject to the following conditions:

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 (Revised effective January 22, 2010; Rules Revision Memo 44C)

It is the policy of the Career Service Board ("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, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation, or any other status protected by federal, state, or local laws. All such harassment or discrimination is unlawful. The 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 (Revised effective January 22, 2010; Rules Revision Memo 44C)

Unlawful harassment because of race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation, or any other status protected by federal, state, or local laws,

- 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, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation, or any other status protected by federal, state, or local laws. This includes making derogatory statements based on race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation, or any other status protected by federal, state, or local laws. 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. (Revised effective January 22, 2010; Rules Revision Memo 44C)
- 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.

16-61 Contemplating or Imposing Discipline on an Employee Convicted of or Charged with a Crime.

Upon notification that an employee has been charged with or convicted of a crime, the appointing authority shall follow the guidelines described below:

- A. If an employee has been charged with a crime, before imposing discipline, the department or agency must determine there is a preponderance of evidence demonstrating that the employee engaged in the conduct which forms the factual basis for the crime with which the employee is charged. The department or agency must also consider: the nature and type of the conduct which supports the charge; the nature of the position the employee holds in the City and the relationship of the position to the facts underlying the charge; and the impact of the facts on the employee's ability to perform the position.
- B. If an employee has been convicted of a crime, before imposing discipline, the department or agency must consider: the nature and type of crime for which the person has been convicted; the facts underlying the crime; the nature of the position the employee holds in the City and the relationship of the position to the crime; the impact of the facts on the employee's ability to perform the position; and any evidence of rehabilitation.
- C. Conviction of a crime or the facts underlying a charged crime may be grounds for any form of discipline outlined in this Rule 16, up to and including dismissal, when the conviction or facts underlying the charged crime renders the employee unfit to perform their job, brings disrepute upon the City or compromises the integrity of the City.
- D. If the department or agency, after considering these factors, believes that discipline is appropriate, it shall proceed with the pre-disciplinary procedures contained in this Rule 16.

Section 16-70 Disciplinary procedures

Appointing authorities may designate agents to act for them in imposing discipline under this Rule 16.

16-71 Verbal reprimand

Verbal reprimands must be accompanied by a notation in the supervisor's file and the agency's file on the employee. The employee shall be notified that a verbal reprimand is being documented in their file.

16-75 Procedure for Dismissal

- A. Dismissal of employees during employment probation: During the probationary period following employment or re-employment appointment, dismissal by the appointing authority shall be final. However, such action may be appealed only on the grounds of alleged discrimination because of race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation, or any other status protected by federal, state or local laws, in accordance with Rule 19 **APPEALS**. The employee shall be given written notice of dismissal. (Revised effective January 22, 2010; Rules Revision Memo 44C)
- B. Employees dismissed after employment probation: The appointing authority shall give the employee written notice of dismissal on or before the effective date, unless the dismissal is immediate.
- C. Dismissed employees are not eligible for future employment in the Career Service for a minimum of five years following such dismissal. The Personnel Director shall establish procedures governing how dismissed employees may be placed on eligible lists after the five years have elapsed.
- D. Current address: It is the responsibility of each Career Service employee to assure that official personnel records of the City reflect the employee' s current mailing address, current residence address and telephone number at all times.

**RULE 19
APPEALS**

(Effective January 1, 2006; Rules Revision Memo 3C)

Purpose Statement

The purpose of this rule is to describe the authority of and procedure for appeals before the Career Service Hearing Office ("Hearing Office") and the Career Service Board ("Board").

Section 19-10 Actions Subject to Appeal

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

- A. An employee who holds career status may appeal the following:
1. Direct Appeals: An employee or former employee must file an appeal directly with the Hearing Office in order to challenge the following action(s) of an appointing authority:
 - a. Dismissal;
 - b. Suspension or temporary reduction in pay;
 - c. Involuntary demotion with an attendant loss of pay;
 - d. Disqualification;
 - e. Layoff; or
 - f. A retaliatory adverse employment action, as defined by the City's "Whistleblower Protection" ordinance (attached as an appendix).

It is not necessary that a complaint be filed or an investigation be conducted prior to the filing of a direct appeal where it is alleged that the action being appealed involved discrimination, harassment or retaliation, or violation of the City's "Whistleblower Protection" ordinance.

2. Appeal of Complaint or Grievance: An employee may file an appeal following a formal complaint or grievance only as described below:
 - a. Discrimination, Harassment or Retaliation: Any action, that is not subject to a direct appeal, of any supervisor/manager or employee resulting in alleged discrimination, harassment or retaliation because of race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation, or any other status protected by federal, state or local laws may be appealed if, after filing a formal complaint as required by Rule 15 **CODE OF CONDUCT**, the disposition of such complaint has not resulted in stopping or otherwise addressing the alleged discrimination, harassment or retaliation. (Revised effective January 22, 2010; Rules Revision Memo 44C)

b. Grievance:

- i. Any grievance which results in an alleged violation of the Career Service Rules ("Rules"), the City Charter, ordinances relating to the Career Service, executive orders, or written agency policies and negatively impacts the employee's pay, benefits or status;
- ii. A grievance in which the agency/department failed to respond according to Rule 18 **DISPUTE RESOLUTION**; or
- iii. A grievance in which the agency/department has failed to implement the remedy granted and the grievant has notified the agency of the intent to file an appeal in accordance with Rule 18 **DISPUTE RESOLUTION**.
- iv. The grievance must be in conformance with and processed pursuant to the requirements of Rule 18 **DISPUTE RESOLUTION**.
- v. Notwithstanding the above provisions, written reprimands may not be appealed.

c. Grievance of Performance Enhancement Program Reports: Only grievances of Performance Enhancement Program Reports ("PEPRs") with overall ratings of "Failing" may be appealed. The only basis for reversal of the PEPR shall be an express finding that the rating was arbitrary, capricious, and without rational basis or foundation. (Revised effective January 1, 2010; Rule Revision Memo 43C)

3. Bonus or incentive payments or the lack thereof, or the criteria used by an agency or department to make or not make such payments, or any other aspect of the bonus or incentive program may not be appealed.

- B.
1. Career Service employees who do not hold career status or former employees who did not hold career status may only file direct appeals when they have alleged that an employment decision subject to direct appeal is discriminatory or when they allege a violation of the "Whistleblower Protection" ordinance.
 2. Career Service employees who do not hold career status may appeal the disposition of a complaint alleging discrimination.