

MEMORANDUM

REVISION 47 SERIES C, part 2

TO: Holders of CSA Rule Books
FROM: Career Service Board
DATE: October 17, 2010
SUBJECT: Revision to Career Service Rules

The Career Service Board has approved the following revisions of the Career Service Rules in connection with the implementation of simplified pay ranges. These rule revisions are being published in two parts. The first part was published on September 21, 2010. The second part is being published on October 14, 2010 with an effective date of October 17, 2010 to coincide with the implementation of new pay tables with simplified pay ranges. With the implementation of simplified pay ranges, all steps will be removed from pay ranges. Pay ranges will still be tied to a pay grade and assigned to job titles. Pay ranges will still have range minimums and range maximums as they do now. However, pay within each pay range will no longer be forced to fall upon a step. As a result, several Career Service Rules must be revised in order to implement this change. Increases and decreases in pay which are mandated by the rules will be based on percentage changes rather than step changes. In addition to removing references to steps and replacing them with references to percentages, the following changes have been made to the rules:

- 'Entry rate' will be changed to 'range minimum'.
- 'Maximum rate' will be changed to 'range maximum'.
- Documentation is not required with promotions unless the pay increase is greater than 8% (increased from 6.9%).
- References to the 'Employee Internship Appointment' are being removed from Rule 9.
- A subsection is being added to Rule 9 explaining how pay will be set after a return from promotional probation.

| | <u>Page Number</u> | <u>Issuance Dates</u> |
|----------------|--|--|
| Remove: | 3-1, 3-1.1 3-2 5-1, 2, 3, 3.1 5-4 5-5 5-6, 7, 7.1 | January 22, 2010 May 4, 2007 June 8, 2007 January 22, 2010 March 17, 2006 December 29, 2009 |

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| | 5-8 through 5-11 5-12 5-12.1 through 12.4 5-13 through 5-16 8-1 9-1, 2, 3, 3.1 9-4 9-5, 6, 6.1 9-7 9-8, 8.1 9-9, 10 9-11 9-12, 12.1 9-12.2 9-13 9-13.1 9-14, 15 9-16 9-17 9-18 9-19 9.A.-1 13-1 through 13-6 16-8 | May 4, 2007 January 23, 2009 January 23, 2001 December 29, 2009 July 1, 2009 September 21, 2010 July 6, 2007 July 1, 2009 May 20, 2008 September 21, 2010 September 12, 2008 July 25, 2006 May 20, 2008 October 10, 2008 September 21, 2010 December 29, 2009 September 21, 2010 April 1, 2006 September 18, 2009 April 1, 2006 September 21, 2010 December 29, 2009 December 29, 2009 February 28, 2006 |
| Replace | 3-1, 3-2, 3-2.1 5-1 through 5-22 8-1 9-1 through 9-23 9.A.-1 13-1 through 13-6 16-8 | October 14, 2010 |

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

**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 range minimum of the pay range of the new classification is lower than the range minimum of the pay range of the classification previously held (Revised effective October 17, 2010; Rules Revision Memo 47C).

- 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 range minimum of the pay range of the new classification is higher than the range minimum of the pay range of the classification previously held (Revised effective October 17, 2010; Rules Revision Memo 47C).

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- 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 or lower range minimum than the former classification, subject to the following conditions:
1. Former employees whose separation was the result of a dismissal are not eligible for re-employment.
 2. An appointment that meets the definition of a re-instatement in Rule 5 **APPOINTMENTS AND STATUS** is not a re-employment appointment.
 3. In order to determine eligibility for re-employment into a successor classification, the Career Service Personnel Director (“Personnel Director”) may, on a case-by-case basis, review the duties previously performed as well as classification and pay.

(Revised effective October 17, 2010; Rules Revision Memo 47C)

- H. Re-promotion: A promotion of an employee to a position in a higher classification in which the employee was previously employed within the preceding five (5) years, or to a successor classification; or to any classification for which the employee is qualified, with the same or intervening range minimum as the former classification. Appointments that meet the definition of a promotional re-instatement in Rule 5 **APPOINTMENTS AND STATUS** are not re-promotions (Revised effective October 17, 2010; Rules Revision Memo 47C).
- I. Transfer: An appointment of an employee from a position in one classification to a different position in a classification with the same range minimum:
1. In a different department or agency; or
 2. In a different classification in the same department or agency.

(Revised effective October 17, 2010; Rules Revision Memo 47C)

Section 3-10 Delegation of Authority by Personnel Director

The Personnel Director may delegate any authority given under this rule to a subordinate employee.

Section 3-15 Selection Responsibilities

3-16 CSA Responsibility

- A. The CSA shall be responsible for:
 - 1. Recruiting;
 - 2. Examination;
 - 3. Certification; and
 - 4. Any other services related to the selection process requested by the appointing authority and agreed to by the CSA.
- B. Except as delegated by the CSA, departments and agencies are not authorized to administer pre-employment or on-the-job examinations to applicants or eligible candidates.

**RULE 5
APPOINTMENTS AND STATUS**

Section 5-10 Appointment by Appointing Authority

The Career Service shall comprise all employees of the City and their positions, subject to the exceptions in the City Charter (relevant sections have been attached as an appendix to this rule). Election Judge positions are not part of the Career Service. Appointment to any position in the Career Service shall be made by an appointing authority, subject to local, state, and federal employment laws. (Effective June 8, 2007; Rules Revision Memo 19C)

Section 5-20 Medical examinations following a conditional offer of employment

- A. All classes in the Career Service shall be allocated to a medical group by the Career Service Personnel Director ("Personnel Director") with approval of the Career Service Board ("Board"). The medical groups are as follows:
1. Medical Group 1: Positions which demand a very high degree of physical fitness and health.
 2. Medical Group 2: Positions which demand considerable labor and exertion or in which safety considerations mandate a high degree of physical fitness and health.
 3. Medical Group 3: Positions which require little physical labor or exertion and an average degree of health.
- B. Applicants who are offered positions which are classified as group 1 or 2 will be required to submit to a medical examination after receiving a conditional offer of employment. The examination shall be administered by the occupational health and safety clinic at Denver Health Medical Center. The examination shall be completed after a conditional offer of employment has been given to the applicant and before the first day of work.
- C. Applicants who are offered positions which are classified as group 3 will not be required to submit to a post employment offer medical exam.

5-21 Adoption of Medical Standards

Medical standards for each medical group shall be proposed by Denver Health Medical Center. Proposed standards adopted by the Board shall be used as a guide in determining medical fitness. The Personnel Director may waive these standards at the request of an appointing authority when the Personnel Director determines that it is in the best interest of the City and when such employment will not constitute a hazard to the prospective employee's health or create a liability to the City.

Section 5-30 Types of Positions

(Effective November 1, 1980; Rules Revision Memo 127A).

5-31 General

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

- A. Duration; and
- B. Number of hours worked.

5-32 Duration

The duration of each position in the Career Service shall be determined by one of the following definitions:

- A. Unlimited positions: A position which has no specified ending date.
- B. Limited position: A position which has a specified ending date. Examples are positions funded by grants, positions created to meet a special project or seasonal need, positions created to replace an employee on extended leave, positions created to provide program continuity on an acting basis while recruitment is underway to fill a vacant position, and similar positions created with a time limitation for comparable specific purposes.

5-33 Number of Hours Worked

- A. Identification of positions by category: Each position in the Career Service shall be identified by one of the following working hours categories:

- 1. Full time;
- 2. Part time;
- 3. On call.

- B. Criteria of categories:

- 1. Full time: A full time position is one in which an employee is scheduled to work forty (40) hours per week. If a special work schedule is authorized under Rule 9 **PAY ADMINISTRATION**, a full time position shall include a work schedule of eighty (80) hours in two (2) weeks, when applicable.
- 2. Part time: A part time position is one in which an employee is scheduled to work less than forty (40) hours per week.

3. On call: An on call position is one in which the employee works as needed. On-call positions may have routine or variable work patterns and are generally filled to accommodate seasonal or short term activities in various city agencies. Ushers are an example. Since Election Judges are not in the Career Service, they are not considered to be on-call Career Service employees. (Effective June 8, 2007; Rules Revision Memo 19C)

Section 5-40 Employee Status

(Effective November 1, 1980; Rules Rev. Memo 127A; revised effective April 1, 2006; Rules Revision Memo 6C)

5-41 General

Every Career Service employee shall hold one of the following employee status identifications; determined by position characteristics, probation requirements, or both:

- A. Employment probationary status;
- B. Career status;
- C. Promotional probationary status;
- D. Non-career status;
- E. Trainee or intern probationary status.

5-42 How Status is Attained

- A. Employment probationary: Every person when first appointed or re-employed to a full time or part time, limited or unlimited Career Service position, that is not a trainee or intern position, shall hold employment probationary status for the probation period required for the class.
- B. Career:
 1. General: Employees attain career status through:
 - a. Successful completion of-the probationary period, and the training programs required by Rule 6 **EMPLOYEE TRAINING AND ORGANIZATIONAL DEVELOPMENT**; or
 - b. Re-instatement after layoff.
 2. Promotion while on employment probation: An employee promoted while on employment probation shall attain career status in the former class upon satisfactory completion of the number of months required in that former class. In order to achieve career status in the class to which promoted, the employee shall serve the remaining probationary period required for that class in promotional probationary status.

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- C. Promotional probationary: Every career status employee who receives a promotional appointment (including re-promotion) shall hold promotional probationary status for the full probationary period of the new class. A promotional probationary employee who transfers from career status to non-career status and back again shall have promotional probationary status as of the date immediately preceding the initial transfer.
- D. Non-career: Every person who is appointed to an on-call position shall hold non-career status for the duration of the appointment and shall not serve a probationary period.
- E. Trainee or intern probationary: Every person who is appointed to a trainee or intern position shall hold trainee or intern probationary status for the duration of the appointment, as required for the applicable trainee or intern classification specification. The Public Safety Cadet classification is considered a trainee classification under these rules.

Section 5-50 Probation

(Effective 11/1/80; Rules Rev. No. 127A; rev'd effective 4/1/06; Rules Rev. No. 6C)

5-51 Purpose (Effective 12/2/81; Rules Rev. No. 25B)

Probationary periods shall be regarded as integral parts of the examination process and shall be utilized for closely observing the employee's work, assisting the employee to adjust to the duties and responsibilities of the position, and to separate or demote, or return from promotional probation an employee whose performance does not meet required standards, in accordance with the following:

- A. During employment, trainee or intern probation: An employee serving employment, trainee, or intern probation may be separated in accordance with Rule 16 **DISCIPLINE AND DISMISSAL**, or demoted to a position with less responsibility in accordance with paragraph 5-72 E Demotion appointment. Upon demotion, the employee shall begin a new employment probationary period.
- B. During promotional probation: An employee serving promotional probation shall be returned from promotional probation to a position in the class from which promoted within the agency from which promoted. The failure to satisfactorily complete a promotional probationary period shall be documented in accordance with subsection 5-53 End of Probation Notification and subsection 5-63 Employees in Promotional Probationary Status. (Effective 7/1/91; Rules Rev. No. 147B).

5-52 Duration of Probation

- A. Minimum period: Except for Deputy Sheriffs, the minimum period of employment and promotional probation shall be six (6) months. The duration of trainee and intern probation is set by the applicable classification specification. The minimum period of probation for Deputy Sheriffs shall be twelve (12) months. (Effective 1/21/93; Rules Rev. No. 163B)

B. Extension of probation:

1. At the request of an appointing authority, the Personnel Director may approve the extension of an employment and promotional probationary period up to six (6) months if the Personnel Director considers the best interests of the City to be served thereby. (Effective 12/3/81; Rules Rev. No. 24B)
2. Employees serving employment or promotional probation who have not completed training programs required by Rule 6 **EMPLOYEE TRAINING AND ORGANIZATIONAL DEVELOPMENT** as a condition of passing probation will have their probationary periods automatically extended until the training programs have been completed and documentation evidencing such completion has been provided to the Career Service Authority ("CSA"). This paragraph shall not affect a department or agency's ability to end probation at any time. (Revised effective January 22, 2010; Rules Revision Memo 45C)

C. Measurement of time: For the purposes of this subsection, time shall be measured in calendar days, irrespective of whether the position has a full time or part time work schedule.

5-53 End of Probation Notification
(Effective 7/1/91; Rules Rev. No. 147B)

A. General: Employee performance during a probationary period shall be documented by probationary reports. Employee performance shall be certified by an end-of-probation notification, or a written statement indicating the employee has passed or failed in completing the probationary period.

B. Effective dates for end of probation notification:

1. End of probation notification: Employee performance during a probationary period shall be documented by the completion of a notification form prepared by the employing agency in a format authorized by the CSA. If the employee fails to pass probation, a letter notifying the employee, copied to the CSA, shall substitute for the notification form. In either case, it shall be due before the effective date of attainment of career status.
2. Dates: The date of notification shall be prior to the conclusion of the required probationary period.
3. Other probationary appraisals: Supervisors are encouraged to continually appraise performance during the probationary period so that employees are fully informed of their progress.

- C. Failure to file an end-of-probation notification letter or form: An employee who has completed the required probationary period and the training programs required by Rule 6 **EMPLOYEE TRAINING AND ORGANIZATIONAL DEVELOPMENT** shall attain career status unless the required notification letter or form stating successful completion or failure in completing the probationary period has been received at CSA prior to the end of the probationary period.
- D. Procedure when employee will not pass probation: If it is anticipated that the employee will not pass probation, the agency shall notify the employee of this decision a reasonable time in advance, but no less than two (2) working days prior to the completion of probation date, and shall allow representation at the meeting to discuss this action.
- E. The provisions of this subsection 5-53 End of Probation Notification, do not apply to employees in trainee or intern probation.

Section 5-60 Effect of Employment Status on Employee Rights, Privileges and Benefits.
 (Effective November 1, 1980; Rules Revision Memo 127A: Re-numbered effective October 17, 2010; Rules Revision Memo 47C)

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

An employee in employment probationary status:

- A. May be terminated or demoted at any time;
- B. 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;
- C. 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);
- D. Is entitled to disability leave in accordance with Rule 11 **UNPAID AND EXTENDED LEAVE** (Revised effective January 1, 2010; Rules Revision Memo 42C); and
- E. 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:

- A. May be disciplined or dismissed only for cause, in accordance with Rule 16, **DISCIPLINE AND DISMISSAL**;
- B. May file a grievance or appeal for any reason specified in Rule 18 **DISPUTE RESOLUTION** or Rule 19 **APPEALS**;
- C. 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);
- D. May earn merit increases and merit payments in accordance with Rule 13 **PAY FOR PERFORMANCE**; (Effective September 1, 1989; Rules Revision Memo 129B)
- E. Is entitled to lay-off protection specified in Rule 14 **SEPARATION OTHER THAN DISMISSAL** except for employees appointed to limited positions after January 16, 2004; (Revised March 19, 2004; Rules Revision Memo 247B);
- F. May receive re-instatement appointments (as provided in Rule 3 **SELECTION**), re-assignments, transfer appointments or demotion appointments without serving a new probationary period; (Revised March 19, 2004; Rules Revision Memo 247B);
- G. May have continuous service credits earned prior to lay-off restored if such employee is re-instated or re-employed while still on the re-instatement list (Effective December 18, 1980; Rules Revision Memo 01, Series B); and
- H. 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:

- A. May be terminated at any time;
- B. 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;
- C. May promote to a higher level class if qualified in accordance with these rules;
- D. May be re-assigned or transferred to another position in a class with the same job rate; and
- E. 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:

- A. May be terminated or demoted at any time;
- B. 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;
- C. Is entitled to accumulate and take leave in accordance with Rule 10 **PAID LEAVE** (Revised effective January 1, 2010; Rules Revision Memo 42C);
- D. Is entitled to disability leave in accordance with Rule 11 **UNPAID AND EXTENDED LEAVE** (Revised effective January 1, 2010; Rules Revision Memo 42C);
- E. May promote to a higher level class if qualified in accordance with these rules;
- F. May be re-assigned or transferred to another position in a class with the same job rate; and
- G. May demote to another position, if qualified.

Section 5-70 Types of Appointments

5-71 Appointments of Applicants Who Are Not in the Career Service (Effective May 4, 2007, Rule Revision Memo 18C)

- A. Employment appointment: An appointment made as a result of certification of an employment list in accordance with Rule 3 **SELECTION**.
- B. Re-instatement appointment: An appointment of a former employee who had been laid off or who resigned in lieu of a lay-off, which is made as a result of certification from a re-instatement list in accordance with Rule 3 **SELECTION**.
- C. Re-employment appointment: An appointment of a former employee to a position in the classification in which the employee was previously employed within the preceding five (5) years, or to a successor classification; or to any classification for which the employee is qualified, with the same or lower range minimum than the former classification, subject to the following conditions:
 - 1. Former employees whose separation was the result of a dismissal are not eligible for re-employment;
 - 2. An appointment that is a re-instatement is not a re-employment;
 - 3. In order to determine eligibility for re-employment into a successor classification, the Personnel Director may, on a case-by-case basis, review the duties previously performed as well as classification and pay; and
 - 4. A former employee who is re-employed shall serve in an employment probationary status.

(Revised effective October 17, 2010; Rules Revision Memo 47C)

5-72 Appointments of Employees Who Are in the Career Service (Effective May 4, 2007, Rule Revision Memo 18C)

- A. Promotional appointment: An appointment of an employee to a position in a classification in which the range minimum of the pay range for the new classification is higher than the range minimum of the pay range for the employee's current classification (Revised effective October 17, 2010; Rules Revision Memo 47C).
- B. Promotional re-instatement appointment: An appointment of an employee who has been demoted in lieu of lay-off which is made as a result of certification from a re-instatement list in accordance with Rule 3 **SELECTION**.

- C. Re-promotional appointments: A promotion of an employee to a position in a higher classification in which the employee was previously employed within the preceding five (5) years, or to a successor classification; or to any classification for which the employee is qualified, with the same or intervening range minimum as the former classification subject to the following conditions:
1. Appointments that are promotional re-instatements are not re-promotions;
 2. In order to determine eligibility for re-promotion into a successor classification, the Personnel Director may, on a case-by-case basis, review the duties previously performed as well as classification and pay; and
 3. An employee who is re-promoted shall serve in a promotional probationary status.

(Revised effective October 17, 2010; Rules Revision Memo 47C)

- D. Transfer appointment: An appointment of an employee from a position in one classification to a different position in a classification with the same range minimum:
1. In a different agency; or
 2. In a different classification in the same agency.

(Revised effective October 17, 2010; Rules Revision Memo 47C)

- E. Demotion appointment: An appointment of an employee to a position in a classification in which the range minimum of the pay range of the new classification is lower than the range minimum of the pay range of the classification previously held. However, this transaction shall not apply when an employee returns from promotional probation. (Revised effective October 17, 2010; Rules Revision Memo 47C)

- F. Return from promotional probation appointment: Change of a career status employee serving promotional probation to a position in the class from which promoted within the agency from which promoted. (Effective December 3, 1981, Rules Revision Memo 25B).

G. End of training or internship probationary period:

1. The department or agency shall report to the CSA, in writing, at the conclusion of the trainee or intern probationary period, whether the trainee or intern has successfully completed the probationary period by acquiring the competencies, knowledge, skills and abilities necessary to satisfactorily perform the duties of the position.
2. An appointing authority may request, in writing to the Personnel Director, that the trainee or intern be deemed to have successfully completed the probationary period prior to the employee's completion of the trainee or intern probationary period.
3. Upon a determination by CSA that the trainee or intern has successfully completed the trainee or intern probationary period, the department or agency may request that CSA conduct a recruitment so that the trainee or intern may compete for the position.

5-73 Transfer Appointment

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

- A. An employee may be given a transfer appointment provided that the employee and the receiving appointing authority consent, and that the requirements of Rule 3 **SELECTION** are satisfied. The employee's status shall not be affected by this type of transfer appointment except as provided in paragraph C Transfer transition period.
- B. Effective date of transfer: Unless otherwise agreed upon, a transfer appointment between departments or agencies becomes effective thirty (30) calendar days after the releasing department or agency is notified that the employee and the receiving department or agency have both consented to the transfer. However, the time may be shortened if the effective date is set jointly by the releasing appointing authority and the receiving appointing authority.

C. Transfer transition period:

1. Definition: A transfer transition period is a ninety-day (90) period following the effective date of a transfer during which the appointing authority of the receiving agency may initiate a return from transfer.
2. Eligibility: A transfer transition period applies except in either of the following circumstances:
 - a. The employee has employment probation status on the effective date of the transfer; or
 - b. The transfer was either in lieu of layoff or anticipation of layoff.
3. Effect of returning from transfer: If a return from transfer is initiated during the transfer transition period, the employee shall be returned to a position in the same classification in the same department or agency as prior to the transfer.

5-74 Demotion Appointments

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

- A. Reasons for demotion: An appointing authority may give a demotion appointment in the following instances:
1. In lieu of lay-off: When a position is to be abolished, in accordance with Rule 14 **SEPARATION OTHER THAN DISMISSAL**.
 2. In lieu of separation for disqualification: When an employee is not performing satisfactorily, in accordance with Rule 14 **SEPARATION OTHER THAN DISMISSAL**.
 3. In lieu of separation during employment probationary status: When an employee fails to perform satisfactorily, in accordance with subsection 5-61 Employees in Employment Probationary Status.
 4. Voluntary: When an employee requests assignment to work of less difficulty or responsibility or accepts a voluntary demotion in lieu of lay-off as defined in Rule 14 **SEPARATION OTHER THAN DISMISSAL**.
- B. Notice to employee: Before the demotion appointment is effective, the appointing authority shall furnish the employee a written statement containing the reasons for the demotion. If the demotion is voluntary, the statement should be signed by the employee. A copy of the statement shall be sent to the CSA before the demotion is effective.
- C. CSA approval: Voluntary demotions must satisfy the requirements of Rule 3 **SELECTION**. For all other types of demotions, the CSA shall approve the demotion appointment if it finds that the employee meets the minimum qualifications for the new class.

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- D. Appeal: All demotion appointments may be appealed under Rule 19 **APPEALS** provided that:
1. Demotion appointments in lieu of separation during probationary status or return from promotional probationary status may be appealed only on grounds of alleged discrimination;
 2. Voluntary demotion appointments may be appealed only on grounds of alleged coercion; and
 3. Demotion appointments resulting from a settlement of an appeal or grievance may be appealed only if the terms of the settlement have been violated.

5-75 Limitations on Appointment or Re-assignment of Immediate Family Members
(Effective January 1, 1982; Rules Revision Memo 21B)

- A. General: No employee or officer (including any appointment authority or his or her designated representative) shall supervise or be in a direct line of supervision over a member of his or her immediate family, as defined in Rule 1 **DEFINITIONS**.
- B. Exception: Career Service employees who were employed on May 19, 1976 shall be permitted to retain their positions and status, as held on that date, and may promote, demote, or transfer in accordance with Career Service rules governing these appointments without regard to the provisions of this subsection:
1. They are continuously employees under Career Service, and
 2. The supervisory relationship or the direct line of supervision relationship existed prior to January 1, 1982.
- C. If a supervisor or an employee or officer in a direct line of supervision becomes a member of the immediate family of a subordinate on or after January 1, 1982, the persons affected by this rule shall have six (6) months to come into compliance.

Section 5-80 Re-assignment
(Effective November 1, 1980; Rules Revision Memo 127A)

5-81 General

An appointing authority may assign or re-assign an employee at any time to any position within the employee's classification in the same agency or within consolidated appropriation accounts except as provided below. (Effective October 5, 1995, Rules Revision Memo 184B).

5-82 Effect on Status (Eff. Date: 7-11-94)

A re-assignment in no way affects the status of the employee involved.

5-83 Re-assignment to a Part-Time Position or to a Limited Position (Eff. Date: 7-11-94)

- A. To a part-time position: An employee may be re-assigned from a full-time position to a part-time position only if the employee consents to the re-assignment.
- B. To a limited position: An employee may be re-assigned from an unlimited position to a limited position only if:
 - 1. The employee consents to the re-assignment, or
 - 2. The employee is granted a leave of absence from the original position for the duration of the re-assignment.

5-84 Reasonable Accommodations for Individuals with Disabilities Policy
(Effective January 1, 2009; Rules Revision Memo 35C)

It is the policy of the CSA to provide equal employment opportunity to individuals with disabilities. This rule is intended to comply with and be interpreted consistently with the Americans with Disabilities Act of 1990 ("ADA"), as amended.

A. Disability discrimination:

No appointing authority, official, supervisor or employee shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, or other terms, conditions, or privileges of employment.

B. Reasonable accommodation:

A department or agency shall provide a reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless it can be demonstrated that the accommodation would impose an undue hardship on the operation of the department or agency.

C. Qualification standards and direct threat:

It is not a violation of this policy for CSA to apply qualification standards, tests, or selection criteria or for an department or agency to apply selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability if such standards, tests, or selection criteria have been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation.

Qualification standards may include a requirement that an individual shall not pose a direct threat to the health or safety of the individual or other individuals in the workplace. Direct threat means a significant risk to the health or safety of others that cannot be eliminated by a reasonable accommodation.

D. Qualified individual with a disability:

A disabled individual is an individual who has

1. A physical or mental impairment that substantially limits one or more of the individual's major life activities;
2. A record of such an impairment; or
3. Being regarded as having such an impairment.

A qualified individual with a disability is an individual with a disability who can perform the essential functions of the position he or she holds or to which he or she seeks re-assignment, with or without reasonable accommodation.

E. Interactive process:

1. If an employee (1) provides notice that the employee needs a reasonable accommodation to perform the essential functions of the employee's position; or (2) the department or agency has actual or constructive notice that an employee may have a disability for which the employee needs reasonable accommodation, the department or agency shall initiate an interactive process within twenty (20) calendar days or a longer period, if approved by the Personnel Director or designee and reasonable under the circumstances. The interactive process shall be a flexible, informal process that involves both the department or agency, the employee and the CSA designee. The purpose of the interactive process shall be to determine if the employee (1) is disabled within the meaning of the ADA; and (2) if so, whether the employee can be reasonably accommodated in his or her position. The interactive process requires good faith participation from both the employee and the department or agency. The CSA designee shall make the final determination, after consulting with the department or agency, as to whether the employee is disabled under the ADA and can be accommodated in his or her position.
2. In making the determination that an employee has a disability within the meaning of this rule, the CSA, department, or agency may request and review medical records and other documentation in the possession, custody, or control of the employee or his or her health care providers. The CSA, the department, or agency also may obtain an independent medical evaluation for the purpose of gathering information needed to make this determination. Such examinations and evaluations shall be reasonable and paid for the department or agency where the employee is presently employed.
3. If the employee is determined not to be disabled as defined in this rule, disqualification proceedings may be initiated if the employee nevertheless is unable to perform the essential functions of position.

4. If the employee is determined to be disabled as defined in this rule, the CSA, department or agency, and the employee shall endeavor to identify any reasonable accommodations the employee may need to perform the essential functions of his or her position. The preferred option always shall be a reasonable accommodation that allows the employee to remain in his or her existing job.

F. Re-assignment:

1. If it is determined during an interactive process that a disabled employee cannot be reasonably accommodated in his or her position and the employee expresses an interest in remaining employed with the City, the CSA, with the assistance of the department or agency, shall explore re-assignment to a vacant position as a possible reasonable accommodation. A vacant position is one that has been requisitioned by an appointing authority to be filled.
2. The disabled employee shall be offered a re-assignment to a vacant position that is equivalent in terms of pay and benefits or, if none is available, to a position of lower pay and benefits. The disabled employee must meet the minimum qualifications and requirements for the position as determined by the CSA. The employee does not need to be the best-qualified individual for the position in order to obtain it as a re-assignment.

The CSA first shall attempt to identify a vacant position that is equivalent in terms of pay and benefits within the employee's department or agency. If none exist, the CSA shall attempt to identify a vacant position that is equivalent in terms of pay and benefits within another department or agency. If no equivalent position exists, the CSA shall attempt to identify a position of lower pay and benefits, first in the employee's department or agency, and then in another department or agency. The CSA designee shall provide to the employee a list of all vacancies for which the employee is qualified to perform. The employee may express his or her preference regarding the selection of a re-assignment position. However, the CSA designee is free to choose the re-assignment position to be offered to the employee. A department or agency to which a disabled employee is being re-assigned is required to cooperate with the re-assignment process coordinated by the CSA but may file a request to the Personnel Director to review the re-assignment placement within five (5) calendar days of the re-assignment notice if the department or agency reasonably believes that the employee will not be able to perform the essential functions of the position with or without reasonable accommodation.

If the employee is re-assigned to a vacant position, the employee shall be provided any reasonable accommodation necessary for the employee to perform the essential functions of the re-assignment position.

From the date that the employee expresses an interest in continued employment with the City, the CSA shall look for vacant positions for a period of three (3) months. If no vacant position becomes available during the three-month period, disqualification proceedings may be initiated. The responsibility to engage in the interactive process may terminate earlier if the employee withdraws his or her request for a reasonable accommodation.

During the interactive process, a disabled employee may decline a demotion re-assignment position and request the CSA to continue looking for comparable vacant positions within the three-month time period. However, if an employee declines an offer of a comparable position in terms of salary and benefits, the interactive process will cease. The CSA shall not be required to continue looking for suitable re-assignment positions and disqualification proceedings may be initiated. If no vacant position becomes available during the three-month period, disqualification proceedings may be initiated.

3. In identifying a vacant position to which a disabled employee may be re-assigned, the CSA shall analyze the employee's specific experience, skills and background, and the specific job duties of the vacant position by consulting with the department or agency in which the vacancy exists. If determined necessary, the CSA designee shall perform a job analysis of the vacant position.
4. If a disabled employee is re-assigned to a vacant position and the department or agency subsequently determines that the disabled employee is unable to perform the essential functions of the position, with or without reasonable accommodation, the interactive process will be resumed from the beginning and the CSA shall attempt to identify another vacant position to which the disabled employee can be re-assigned for a period not to exceed three (3) months. If an employee originally took a demotion, CSA will look for positions at the original pay grade if the employee is able to perform the essential functions of that position with or without accommodations. The interactive process need not be resumed if the employee has performance problems in the position that are unrelated to his or her disability, or if the employee is dismissed as a corrective measure for misconduct.

5. Before rejecting or denying a reasonable accommodation by re-assignment to a job on the basis that the individual poses a direct threat to the health and safety of the employee or others, the CSA shall perform an individualized assessment of that individual's ability to perform safely the essential functions of the re-assignment position. In making this determination, a number of factors shall be considered, including but not limited to the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the imminence of the potential harm. The CSA will consider input from the individual, the experience of that individual in previous similar positions, medical judgment that relies on the best available objective evidence, the opinions of medical doctors and other health care providers, professionals or associates who have expertise in the medical condition involved, and/or direct knowledge of that individual's qualifications or ability to perform the job.
6. If the CSA believes that an individual with a disability poses a direct threat to himself or herself or others, the employee shall be advised of the reasons for the proposed rejection, including each essential function of the job which it has been determined the individual cannot safely perform and the reasons why the individual cannot safely perform those functions. The CSA shall invite the individual to provide, within a reasonable time, additional information regarding his or her ability to safely perform the job, with or without reasonable accommodation, including but not limited to information from other physicians and information about the individual's current and recent physical capabilities. The CSA shall maintain records of all factors considered in reaching its final decision.
7. Re-assignment 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. Re-assignment is only available to current employees and is not available to applicants.
9. Re-assignment 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 re-assigned employee in the duties of the position re-assigned, as it would do with any new employee.
11. A re-assignment 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 re-assignment. (Effective April 1, 2006; Rules Revision Memo 6C)

12. Disabled Classified Service employees (police officers and fire fighters) are eligible to seek re-assignment 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 re-assigned to a vacant Career Service position as a form of reasonable accommodation, the employee will no longer be a Classified Service employee, but instead will be a new Career Service employee. 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 re-assigned to either an equivalent or demotion position, the employee shall continue to receive the pay rate he or she earned in the former position unless this exceeds the range maximum of the pay range of the new classification, in which case the employee shall receive the range maximum of the pay range of the new classification. (Revised effective October 17, 2010; Rules Revision Memo 47C)

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 unpaid leave. (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.

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| DENVER CITY CHARTER §1.2 OFFICERS AND EMPLOYEES |
| DUAL EMPLOYMENT |
| §1.2.8 – Holding other office or employment. |
| <p>(A) <i>Employees and Appointed Charter Officers.</i> No employee or appointed Charter officer shall have other employment or hold any public office that is incompatible with his or her duties. Every employee and appointed officer shall notify his or her appointing authority in writing before accepting any other employment or public office; newly hired employees and appointed officers shall report any outside employment or office immediately upon being hired or appointed.</p> <p>(B) <i>Elected Charter Officers.</i> Elected officers of the City shall not hold any other public elective office or any employment that is incompatible with their duties. Elected officers shall not hold any other employment with the City. Elected officers shall waive any additional compensation when they serve upon the governing board or body of any public body or any municipal or quasi-municipal corporation within which or part of which the City or a part of it is located, or of which the City is an interested or constituent member.</p> |
| §1.2.9 – Ethics and Conflicts of interest. |
| <p>(A) No officer or employee shall have any interest arising by contract or other relationship that creates a substantial conflict of interest with respect to his or her duties, unless the conflict can be avoided by abstention or disqualification from participating in a transaction without adversely affecting the interests of the City. Every employee and appointed officer shall report promptly in writing to his or her appointing authority any business activity or situation that may be or may become a substantial conflict of interest.</p> <p style="text-align: center;">THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES</p> |

Section 5-100 Dual Employment

(Effective June 7, 1962; Rules Revision Memo 130: Revised effective October 17, 2010; Rules Revision Memo 47C)

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 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 CSA 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 CSA 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.

**RULE 8
COMPENSATION**

(Effective January 1, 2006; Rule Revision Memo 2C;
Revised effective July 1, 2009; Rule Revision Memo 38C)

Section 8-10 Definitions

- A. Benchmark classification: A classification that is representative of several classifications within an occupational group for which external pay data can be readily collected.
- B. Classification: One or more positions so nearly alike in the essential character of their duties and responsibilities that the same pay grade, title and specification can be applied, and such that they can fairly and equitably be treated alike under like conditions for all other personnel purposes.
- C. Market survey: The collection, analysis and reporting of external pay data for a number of benchmark classifications.
- D. Occupational groups: Groupings of classifications that are so similar in the nature of the work performed that the same pay survey adjustments can be applied.
- E. Pay survey adjustment: A pay survey adjustment is a change in the pay structure resulting from a comparison with the pay prevailing in the Denver Metropolitan Area.
- F. Pay grades: Identifying numbers for pay ranges within a pay schedule.
- G. Pay ranges: The range of pay in a pay grade beginning at the range minimum and going to the range maximum of the pay grade. A pay range is assigned to a classification by the classification and pay ordinance. (Revised effective October 17, 2010; Rules Revision Memo 47C)
- H. Pay schedules: A pay schedule is a listing of the pay grades, and the corresponding pay ranges. (Revised effective October 17, 2010; Rules Revision Memo 47C)

Section 8-20 Compensation Policy

The policy of the City and County of Denver is to provide generally prevailing compensation to City employees as provided by the City Charter and the Denver Revised Municipal Code ("DRMC"). This compensation policy is designed to attract, retain and motivate employees in order to support and reinforce the City's vision, values, and strategic business goals. To implement this compensation policy the Career Service Authority ("CSA") will:

- A. Perform market surveys to ensure the City's external market competitiveness;
- B. Provide like pay for like work within classifications; and
- C. Utilize pay for performance plans.

Page issuance date: October 14, 2010
Effective date: October 17, 2010

RULE 9
PAY ADMINISTRATION
(Effective April 1, 2006; Rules Revision Memos 7C and 9C)

Purpose statement

The purpose of this rule is to explain the establishment and administration of pay practices (except merit increases and merit payments), and hours of work.

Section 9-5 Definitions

(Revised effective October 17, 2010; Rule Revision Memo 47C)

- A. Classification series: The arrangement in sequence of classes that are alike in the kind but not in level. For the purposes of a market adjustment within the salary range, a classification series shall include first line supervisors and lead workers.

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

- C. Market Conditions: Factors and trends in the market as determined by a compensation analysis that may affect compensation rates such as the supply and demand of workers.

- D. Pay Factors: Appointing authorities who wish to hire employees at higher than the range midpoint, or increase the salary of promoted employees by more than 8.0%, or provide an equity adjustment, must provide Career Service Authority ("CSA") with documentation explaining how any or all of the following pay factors affected their decision:
 - 1. Market conditions;
 - 2. Related experience;
 - 3. Previous work record;
 - 4. Salary history;
 - 5. Specialization of education;
 - 6. Quality/quantity of education.
 - 7. Internal equity;
 - 8. Level of responsibility accepted;

- E. Promotion: An appointment of an employee to a position in a classification in which the range minimum of the pay range of the new classification is higher than the range minimum of the pay range of the classification previously held.

- F. Re-allocation: The formal process of assigning an existing position to its proper classification on the basis of the duties performed and the responsibilities exercised.
- G. Promotional re-instatement: A promotion of an employee resulting from certification from a re-instatement list.
- H. Re-instatement: An appointment of a laid off employee resulting from certification from a re-instatement list.
- I. Re-promotion: A promotion of an employee to a position in a higher classification in which the employee was previously employed within the preceding five (5) years, or to a successor classification; or to any classification for which the employee is qualified, with the same or intervening range minimum as the former classification. Appointments that meet the definition of a promotional re-instatement are not re-promotions.
- J. Transfer: An appointment of an employee to one classification from another, if the range minimum of the pay range of the new classification is the same as the range minimum of the pay range of the classification previously held.

Section 9-6 Designees

Appointing authorities, including the Career Service Personnel Director ("Personnel Director"), may delegate any authority given to them under this Rule 9 to a subordinate employee.

Section 9-10 Pay practices

- A. Pay practices include, but are not limited to items such as pay when first employed, changes in pay resulting from changes in position or classification, differentials, overtime pay, standby pay, merit increases and merit payments.
- B. The kind and level of pay practices for Career Service employees shall be determined by the Career Service Board ("Board") following a survey of other employers or based on the City's needs.
- C. Applicability to Deputy Sheriffs: None of the provisions of this Rule 9 shall apply to employees who hold positions in classifications in the Undersheriff pay schedules.

Section 9-20 Pay When First Employed

(Revised effective October 17, 2010; Rule Revision Memo 47C)

- A. An appointing authority may set pay for a new employee higher than the range minimum (but not to exceed the range maximum of the applicable pay range) if necessary to obtain the services of an unusually well-qualified person. The decision to appoint at a pay rate higher than the range minimum shall be based on any of the pay factors as defined in this Rule 9. In any event, qualifications of the new employee should exceed the minimum qualifications stated in the classification specification, and internal equity shall be considered.
- B. The appointing authority shall submit documentation with the Personnel Action Form documenting the justification for hiring an employee at or above the mid-point of the applicable pay range.

Section 9-30 Changes in Classification and Pay

(Revised effective October 17, 2010; Rule Revision Memo 47C)

A change in an employee's classification may occur through promotion, transfer, demotion, return from promotional probation, re-allocation, or re-instatement.

9-31 Promotion and re-promotion

- A. Upon promotion an employee's pay shall be increased by at least six and nine-tenths percent (6.9%). In no event shall the pay upon promotion be lower than the range minimum or exceed the range maximum of the pay range of the new classification.
- B. In the event the appointing authority increases an employee's pay by more than eight percent (8%) upon promotion, documentation shall be submitted with the Personnel Action Form explaining how one or more of the pay factors defined in this Rule 9 justify such an increase.
- C. Within the short range pay schedule the employee's pay shall be increased by five percent (5%), but not to exceed the range maximum of the pay range of the new classification.
- D. Demotion and subsequent re-promotion:
 - 1. If an employee demotes without a loss in pay, that employee is not eligible for an increase in pay upon re-promotion if such re-promotion occurs within twelve months following the date of the demotion.
 - 2. In all other circumstances, an employee being re-promoted will have their pay set under the provisions of paragraph 9-31 A.

9-32 Transfers

When an employee transfers, the employee shall receive the same pay as before the transfer, unless that would be more than the range maximum of the new pay range of the new classification. In that case the employee's pay shall be set at the range maximum of the pay range of the new classification.

9-33 Demotion

A. Voluntary demotion:

1. A voluntary demotion is a demotion initiated through the request or application of an employee.
2. When an employee voluntarily demotes, pay shall be set by the appointing authority and shall not be decreased by more than six and nine-tenths percent (6.9%), unless doing so is necessary to keep the employee's pay from exceeding the range maximum of the pay range of the new classification. Before the pay can be set at a pay rate higher than the employee's current pay rate, the Personnel Director's prior approval will be required.

B. Demotion in lieu of lay-off: Upon a demotion in lieu of lay-off, the employee shall continue to receive the pay rate he or she earned before the demotion unless this exceeds the range maximum of the pay range of the new classification, in which case the employee shall receive the range maximum of the pay range of the new classification.

C. Involuntary demotion:

1. An involuntary demotion is a demotion initiated:
 - a. Through disciplinary action in accordance with Rule 16 **DISCIPLINE AND DISMISSAL**; or
 - b. In lieu of disqualification in accordance with Rule 14 **SEPARATION OTHER THAN DISMISSAL**; or
 - c. In lieu of separation during employment probation in accordance with Rule 5 **APPOINTMENTS AND STATUS**.
2. When an employee is involuntarily demoted, pay shall be set by the appointing authority. At least a six and nine-tenths percent (6.9%) reduction shall be required.

D. In no event shall the pay upon demotion be lower than the range minimum or exceed the range maximum of the pay range of the new classification.

9-34 Return from Promotional Probation

When an employee is returned from promotional probation, the employee shall receive the same pay the employee was receiving before the promotion. However, this amount shall be adjusted to take into account the effect of any pay changes (such as a merit increase) or classification changes to the employee's former classification that occurred during the period after the promotion and before the return from promotional probation.

9-35 Re-allocation

- A. When a position is re-allocated to another classification, the incumbent shall receive the same pay as before the re-allocation unless that would be less than the range minimum of the pay range of the new classification. In that case the employee's pay shall be set at the range minimum of the pay range of the new classification. If the employee's pay is higher than the range maximum of the pay range of the new classification, the employee's pay shall remain at the employee's existing rate of pay until such time that either:
1. The employee changes positions; or
 2. The pay range of the new classification catches up to the employee's rate of pay when the pay range is adjusted.
- B. When an employee meets the requirements to progress to a higher classification in a current delegated progressive classification series and the Personnel Director approves the progression to the higher classification, the employee's pay shall be increased by two and one quarter percent (2.25%). In no event shall the employee receive less than the range minimum of the pay range of the new classification.
- C. When a classification is changed to a different occupational group, pay grade, and/or pay range as the result of a re-allocation as described in Rule 7 **CLASSIFICATION**, the pay for employees in that classification shall remain the same as it was before the re-allocation. In no event shall an employee receive less than the range minimum of the pay range of the new classification.

9-36 Re-instatement Appointment or Promotional Re-instatement Appointment

Upon re-instatement or promotional re-instatement, either after lay-off or after demotion in lieu of lay-off, an employee's pay shall be set at the rate of pay the employee received immediately prior to such lay-off or demotion in lieu of lay-off. If payment at this rate would result in a decrease in pay for a current City employee, the pay rate shall be set at the employee's present rate of pay. In no event shall the pay rate be lower than the range minimum of the pay range.

Section 9-40 Work Assignment Outside of Job Classification
(Revised effective May 20, 2008; Rule Revision Memo 28C)

- A. An appointing authority may temporarily assign the duties of a vacant position in a higher level classification to an employee in a lower level classification for a period of one year in accordance with the criteria established in this rule. Assignments for periods longer than one year require the approval of the Personnel Director.
- B.
 - 1. Employees are eligible for additional pay for such assignments when they have been assigned all of the duties and responsibilities of the vacant position in the higher level classification;
 - 2. Additional pay for work outside of an employee's job classification shall start at the beginning of the work week following the fifteenth day of the temporary assignment, and continue for the duration of the assignment.
- C. The employee shall receive additional pay equal to six and nine-tenths percent (6.9%) above his or her regular base pay, unless the employee is receiving equipment differential.
- D.
 - 1. The employee's job classification will not change as a result of a temporary assignment of higher level job duties and responsibilities. Employees receiving additional pay for working outside of their assigned classification shall not be eligible for re-allocation to the higher level classification.
 - 2. If an employee's Merit Date falls within the period of the temporary assignment and the employee receives a merit increase, the pay for the work assignment outside of job classification shall be re-calculated based on the employee's base pay with the merit increase. The re-calculated pay shall be effective as of the date of the merit increase.
- E. Upon completion of the temporary assignment, the employee's pay shall return to the employee's base pay prior to the temporary assignment, including any merit increase awarded during the temporary assignment.
- F. Pay for work outside of an employee's job classification does not impact subsequent pay for promotion, demotion or any other personnel action.

Section 9-50 Recruitment and Retention Pay

A. Recruitment premium (Revised effective May 20, 2008; Rule Revision Memo 28C):

A department or agency may pay a one-time premium of up to \$4,000 to attract a highly qualified external candidate whose skills, knowledge and/or abilities are deemed essential to the mission of the City. The request must be approved by the Budget and Management office prior to extending the bonus offer. The candidate will be eligible to receive this bonus upon the completion of employment probation.

B. Relocation premium (Revised effective May 20, 2008; Rule Revision Memo 28C):

A department or agency may pay relocation costs of up to \$7,500 to attract a highly qualified external candidate whose skills, knowledge and/or abilities are deemed essential to the mission of the City. The individual receiving the relocation assistance must stay employed by the city for two (2) years. If the individual voluntarily terminates employment prior to serving two (2) years, he or she must repay part of the relocation pay. The basis for repayment shall be pro-rated for each month of service. The Budget and Management office must approve relocation pay and the employee receiving such pay shall sign a form acknowledging their acceptance of the terms of this rule.

C. Counter offer (Revised effective May 20, 2008; Rule Revision Memo 28C):

1. A counter offer may be made for any of the reasons listed below:
 - a. To retain an employee whose skills, knowledge or abilities are deemed essential to the mission of the City or a department or agency;
 - b. To avoid recruiting and training costs when those costs clearly exceed the costs of a counter offer;
 - c. When it has been determined that turnover rates in a classification exceed the calculated turnover rate for that occupational group or classification and pay has been determined to be a significant cause; or
 - d. When the vacancy rate within a classification reaches a level where additional loss of personnel may interfere with the City's ability to provide adequate levels of services to the public.

2. An appointing authority may make a counter offer to an employee when the following conditions have been met:
 - a. The base salary and employee benefits the employee will receive at the prospective employer are greater than the base salary and employee benefits the employee is currently receiving from the City;
 - b. The counter offer does not exceed the range maximum of the pay range the employee occupies at the time the offer is extended; (Revised effective October 17, 2010; Rule Revision Memo 47C)
 - c. The prospective employer is not a department or agency of the City; and
 - d. The appointing authority has verified the authenticity of all job offers which constitute the basis for a counter offer.
3. The appointing authority shall submit a copy of the written offer of employment from the prospective employer with the Personnel Action Form.

D. Interim market adjustments:

1. The Board, following a public hearing, may make a market adjustment in a pay practice, or create a temporary pay practice, if the Board finds that all of the following conditions exist:
 - a. Numerous vacancies exist in the classification(s) that will be affected by the proposed pay practice;
 - b. Recruitment has not been effective;
 - c. Retention rate is low; and
 - d. Market driven personnel shortages in the classification(s) are causing difficulty in fulfilling an essential mission of the City.
2. An interim market adjustment shall remain in effect for up to one (1) year. Nothing in this subparagraph prevents a new market adjustment from being established for the same classification(s), provided that all of the requirements of the previous subparagraph are met.

E. Pay adjustment within the salary range (Revised effective September 21, 2010; Rules Revision Memo 48C):

1. An appointing authority may adjust pay for an existing employee, within that employee's current salary range, if the purpose is to eliminate pay inequity created by external market conditions, so long as the existing employee's pay is being compared with the pay of a subsequent hire from outside the City in the same department or agency if the following conditions are met:
 - a. Employees at or above the level of Manager 1 are eligible for this pay adjustment only if the subsequent hire is also at or above the level of Manager 1.
 - b. Other employees are eligible for this pay adjustment if the subsequent hire is;
 - i. In the same classification; or
 - ii. In the same classification series or
 - iii. In a classification in the same occupational group within the same career path performing similar types of duties; or
 - iv. Subordinate to the existing employee in the existing employee's chain of command.
 - c. The effective date of the subsequent hire's employment occurred no more than one year before the request for the pay adjustment is made to the Personnel Director. Exceptions to this limitation may be granted by the Personnel Director upon good cause shown.
2. A pay adjustment within the salary range requires the approval of the Personnel Director. The effective date of any such pay adjustment shall be the beginning of the work week following approval by the Personnel Director.
3. The appointing authority's request for approval shall explain how external market conditions have caused the pay inequity between the existing employee's pay and that of the subsequent hire. This explanation should include information about how pay factors (as defined in this Rule 9) have affected the pay inequity between the two employees.

Section 9-60 Differential Pay Practices

9-61 Shift Differential

(Revised effective September 14, 2008; Rules Revision Memo 31C)

- A. Employee eligibility:
1. Employees in classifications in non-exempt pay schedules are eligible for shift differential, unless the employee is eligible for the health care differential as provided in this Rule 9 **PAY ADMINISTRATION**.
 2. Employees in classifications in exempt pay schedules are not eligible for shift differential, unless the employee is in a classification:
 - a. In which the Board has approved overtime based on community practice (unless also eligible for the health care differential as provided in this Rule 9 **PAY ADMINISTRATION**); or
 - b. Which is a first-line supervisory classification in which the employee's primary duties include the direct supervision of employees who have no subordinate supervisors and are receiving shift differential for the time the employee is supervising them.
 3. Employees in classifications in the short range or community rate pay schedules are not eligible for shift differential.
 4. The Personnel Director, upon the request of an appointing authority, may allow a department or agency to exclude otherwise eligible employees from receiving shift differential based on community practice. Requests based on other reasons require submission by the Personnel Director to and approval by the Board.
- B. The following rates shall be paid for shift differential:
1. Night rate: Twelve percent (12%) of the current hourly rate of pay.
 2. Evening rate: Seven percent (7%) of the current hourly rate of pay.
- C. Shift differential shall be paid for all hours worked by an eligible employee in a work day under the following conditions:
1. If at least half of the hours worked occur between 11 p.m. and 7 a.m. the employee shall receive the night rate;

2. If at least half of the hours worked occur between 3 p.m. and 11 p.m. the employee shall receive the evening rate, unless the other half of the hours worked occur between 11 p.m. and 7 a.m., in which case the employee will receive the night rate.
 3. If neither subparagraphs 1 or 2 are applicable, but at least half of the hours worked occur between 3 p.m. and 7 a.m., the employee shall receive the applicable rate for the period in which a majority of the hours occur. If these hours are evenly divided between 3 p.m. and 11 p.m. and 11 p.m. and 7 a.m., the employee shall receive the night rate.
- D. Shift differential shall not be paid during any period of paid or unpaid leave.

9-62 Equipment Differential

A. Eligibility:

1. Equipment differential shall be paid to employees who are temporarily assigned to operate equipment, which is at a higher level classification than the employee's current classification, and who are not receiving additional pay for a work assignment outside of job classification.
 2. Employees in on-call positions and in classifications listed in the short-range pay schedule shall be entitled to equipment differential.
- B. Equipment differential shall be paid under the following conditions:
1. The equipment being operated is on the Board's approved equipment list for payment of equipment differential.
 2. Assignment in the higher level classification must last for less than thirty (30) days. If all authorized limited positions for a term of nine (9) months or less are filled, the thirty-(30) day limit is waived.
- C. The pay shall be ten percent (10%) of the current hourly rate of pay for each hour worked in the next higher level classification. The pay shall be fifteen percent (15%) of the current hourly rate of pay for each hour worked in the second higher level classification and above.
- D. The total base pay for any pay period, excluding overtime and shift differential, shall not exceed the range maximum of the higher level classification. (Revised effective October 17, 2010; Rule Revision Memo 47C)

9-63 Health Care Differential

- A. Career Service employees who are employed by Denver Health and Hospital Authority (“DHHA”) in classifications in the Health Technical and Related Support, Health Professional, and Doctors occupational groups are eligible for health care differentials paid to comparable classifications at DHHA.
- B. The differentials, eligibility criteria and rates shall be established by DHHA.

9-64 Standby Pay

(Revised effective July 25, 2006; Rules Revision Memo 11C)

- A. Appointing authorities may schedule employees to be on standby duty only when there is a reasonable anticipation that the employee will have to respond and perform work immediately. Eligible employees shall receive an amount equal to one and one half (1 1/2) hours of work at the employee’s straight time hourly rate for each eight hours the employee is on standby duty.
- B. To be eligible for standby pay, the employee must be:
 - 1. Eligible for overtime under the Fair Labor Standards Act (“FLSA”) or under paragraphs A, B or D of subsection 9-93 Overtime Exceptions;
 - 2. Scheduled to be available by pager, cellular phone, or telephone;
 - 3. Required to respond to a call and perform work within a designated amount of time not to exceed two hours;
 - 4. In a non-impaired condition that allows the employee to safely perform job duty assignments; and
 - 5. Subject to disciplinary action if he or she does not respond to the call within the designated amount of time.
- C. When an eligible employee on standby is required to perform work, standby pay will be suspended and the employee will be paid basic pay or overtime pay, as appropriate, for the period the employee actually performs work.
- D. An employee who merely carries a cellular telephone or pager as a routine part of his or her job duties is not eligible for standby pay unless all of the conditions set forth in paragraph B of this subsection are met.

9-65 Call Back Pay

- A. Overtime eligible employees required by the appointing authority to report back to the work site shall be paid a minimum amount equal to two (2) hours of work at the employee's scheduled rate of pay from the time the employee begins work.
- B. Employees who work more than two hours shall be paid for the actual time worked.

9-66 Bilingual Services Differential

(Revised effective April 1, 2008, Rule Revision Memo 25C; and May 20, 2008, Rule Revision Memo 28C)

- A. An appointing authority may pay an employee bilingual services differential if the following conditions have been met:
 - 1. The appointing authority has determined that the employee's position requires that the employee use bilingual skills thirty-five percent (35%) or more of the time;
 - 2. The classification specification for the employee's classification does not require bilingual skills for all incumbents of that classification; and
 - 3. The employee demonstrates a proficiency in the second language, according to procedures established by the Personnel Director.
- B. The effective date of the bilingual services differential shall be the beginning of the first work week following receipt of an appointing authority's request to determine bilingual proficiency by CSA, or following the employee's demonstration of proficiency in a second language, whichever date is later.
- C. Employees who are eligible for bilingual services differential shall receive a differential based on the level of proficiency demonstrated by that employee:
 - 1. Fifty dollars (\$50) per pay period for basic conversational skills;
 - 2. Seventy five dollars (\$75) per pay period for proficiency in the language in both speaking and writing or reading; and
 - 3. One hundred dollars (\$100) per pay period for expert proficiency in the language which includes translation skills.

- D. Employees in part time positions shall have bilingual differential pro-rated as follows, based on the amount of hours actually worked in a pay period:

| | <u>BASIC</u> | <u>MID-LEVEL</u> | <u>EXPERT</u> |
|--------------------|--------------|------------------|---------------|
| 80 hours or more | \$50.00 | \$75.00 | \$100.00 |
| 60-79 hours | \$37.50 | \$56.25 | \$ 75.00 |
| 40-59 hours | \$25.00 | \$37.50 | \$ 50.00 |
| 20-39 hours | \$12.50 | \$18.75 | \$ 25.00 |
| Less than 20 hours | \$ 5.00 | \$10.00 | \$ 15.00 |

- E. When an employee changes positions and the language skills are not a requirement of the new position, the bilingual services differential shall cease.

9-67 Golf Lesson Stipend

(Effective March 12, 2007; Rule Revision Memo 16C)

- A. The Manager of Parks and Recreation may allow eligible employees to receive a Golf Lesson Stipend for lessons conducted at City-owned golf facilities, subject to the following conditions :

1. The employee must be in a position that is exempt from overtime under the FLSA.
2. The employee must either be enrolled in the Professional Golf Association (PGA) or Ladies Professional Golf Association (LPGA) apprenticeship program, or have a valid PGA or LPGA membership.
3. The Department of Parks and Recreation retains the right to revoke eligibility for the stipend for any business-related reason, at any time.
4. The employee has the responsibility for the following;
 - a. Selling and booking the lesson;
 - b. Collecting the fees; and
 - c. Conducting the lesson.
5. All lessons must be entered into and tracked by the golf course's point of sale system, or other tracking system as specified by management.
6. All lessons must be conducted at a time that does not interfere with the employee's job duties. The employee is responsible for completing their assigned schedule each week, not including time spent teaching lessons. The only compensation the employee will receive for time spent teaching golf lessons is the Golf Lesson Stipend.
7. Golf Lesson Stipends will be considered as compensation and included as reportable income.

(Revised effective May 20, 2008; Rule Revision Memo 28C)

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Effective date: October 17, 2010

B. Amount of Stipend

1. The City shall retain sixteen percent (16%) of the fee charged.
2. The City portion of the fee will include the cost of golf balls.
3. Eighty-four percent (84%) of the fee will be paid to the employee as a Golf Lesson Stipend.
4. Stipends will be paid on collected revenue only.

9-68 Heavy Equipment Mechanic Trainer Differential
(Effective June 23, 2008; Rule Revision Memo 29C)

- A. A Heavy Equipment Mechanic ("HEM") who is assigned HEM trainer duties by an appointing authority shall be eligible for a differential of \$2.25 per hour for all time spent performing HEM trainer duties (but not to exceed four hundred hours per calendar year).
- B. The appointing authority shall select eligible HEM trainers through a formal process that shall include submission of an application, a formal interview, and demonstration and evaluation of technical skills.
- C.
 1. The appointing authority shall provide a training plan which shall include the criteria that will be used for selecting HEM trainers to the Personnel Director for approval.
 2. The appointing authority shall provide the name(s) of any eligible employee(s) to the CSA prior to payment of the differential.
- D. An appointing authority may terminate the assignment of training duties to an employee at any time. The appointing authority shall notify the CSA when an employee is no longer assigned training duties.

Section 9-70 Hours of Work

9-71 Standard Work Week

- A. The five (5) day forty (40) hour week shall be the standard work week for employees of the Career Service.
- B. Standard work hours shall be eight (8) hours per day, excluding the meal period. In certain cases, because of the character of the work, it may be necessary for an employee to be required to eat a meal while working. When the meal period is spent predominantly for the benefit of the City, the employee shall be paid for the entire meal period. (Effective October 10, 2008; Rules Revision Memo 32C)
- C. Appointing authorities shall be responsible for establishing daily work schedules.

- D. The work week shall begin on Sunday and end on Saturday unless otherwise designated by the appointing authority.

9-72 Posting of Changes In Work Schedules

(Re-numbered October 10, 2008; Rules Revision Memo 32C)

- A. If work schedules are changed, appointing authorities shall post such schedules so that affected employees are provided with adequate notice of the change in advance of the work week in which it is supposed to occur. However, appointing authorities may require an employee to arrive early or stay beyond his or her regular work schedule or return to work to provide essential City services without such notice. The determination of an essential City service shall be at the discretion of the appointing authority (Revised effective September 21, 2010; Rules Revision Memo 49C).
- B. Employees are permitted to request a temporary change in daily work schedules in order to accommodate personal needs. Appointing authorities have the discretion to grant this request based on the business needs of the department or agency.

9-73 Interruption of Work and Pay During City-wide Emergency

(Effective June 8, 2007; Rules Revision Memo 20C: Re-numbered October 10, 2008; Rules Revision Memo 32C)

- A. An employee who is excused from work for the day or any part of the day when the work program is interrupted (e.g., because of weather) shall be considered to have worked the number of hours included in his or her regular daily schedule. An on-call employee who is called to work and not assigned because of an interruption or change in the work program shall be considered to have worked two (2) hours on that day.
- B. Work interruptions during a Citywide emergency declared by the Mayor

In addition to pay for the interrupted work hours, employees who work during the hours of a City-wide emergency declared by the Mayor are eligible for compensation for working during hours attributed to the emergency condition as follows:

1. Non-exempt employees shall also receive pay for the actual time they work during the City-wide emergency. For purposes of determining if an employee is entitled to overtime, the work hours interrupted by the City-wide emergency shall be counted as time worked in addition to time actually worked and other amounts, such as paid holidays, periods of paid leave, or any discharge of compensatory time, as provided by the overtime provisions of this rule.

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 31st 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 unpaid leave 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 section. 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 section permit the department or agency to provide necessary services.

F. Telecommuting:

1. Telecommuting is the practice of working at home or from a site other than a department or agency's central workplace. It is a work alternative which appointing authorities may offer to or require of employees.
2. Telecommuting is not an employee benefit but an alternative method of meeting the City's needs. Telecommuting is a privilege and an appointing authority has the right to refuse to make telecommuting available to an employee and to terminate a telecommuting arrangement at any time.
3. Employees may express a desire not to telecommute and appointing authorities should consider employees' wishes along with the needs of the City in making a final determination.
4. Permission to telecommute shall be conditioned on compliance with the telecommuting guidelines established by the Personnel Director (see Appendix).

Section 9-90 Overtime

9-91 Policy

- A. In accordance with the FLSA, all work performed in excess of forty (40) hours per week by non-exempt employees shall be designated overtime work for the purposes of compensation, subject to the following exceptions:
1. Non-career employees working for seasonal recreational establishments that do not operate for more than seven months in any calendar year shall be exempt from overtime pay and shall be paid the straight time hourly rate for all hours worked in a work week, including all hours worked in excess of forty (40) hours per week.
 2. Non-career employees whose rates of pay are set by the community rate schedule established by ordinance shall be paid overtime according to that schedule. If the community rate schedule makes no provisions for overtime, such employees shall be paid overtime in accordance with section 9-100.
- B. If a paid holiday, a period of paid leave, or discharge of compensatory time occurs during a work week, such time shall be counted as time worked when determining whether an employee has worked overtime. Time spent taking courses outside of the normal work day shall not be counted as time worked, even if the employee receives paid training leave to take the courses, unless the City has required the employee to take the course.
- C. Unpaid leave shall not count as time worked.
- D. The hours worked as an election judge by an employee shall not be counted as time worked for the purposes of determining overtime eligibility. If an employee wishes to work as an election judge during a regularly scheduled shift, the employee must request leave from the appointing authority.
- E. For the purposes of this rule, an emergency shall include the following events: fire, flood, catastrophe, severe weather conditions that impact public safety or essential services; other unforeseeable emergency where a station must be staffed and another employee is not available for work; or an occurrence affecting the general public which requires immediate action. A declared emergency shall mean an emergency declared by the Mayor or an appointing authority that complies with the definition of emergency stated above.

9-92 Criteria for Authorizing Overtime Work

- A. Overtime work shall be authorized to provide essential City services when such services cannot otherwise be provided by regular or special work schedules. Except in cases of emergency, overtime work shall be authorized and assigned in advance by an employee's supervisor or other designated individual. Working unauthorized overtime may be grounds for discipline, up to and including dismissal.
- B. When an employee has been assigned work outside of his or her normal work schedule, such overtime shall be subject to the same reporting requirements as regular work hours. Failure to report for such work may be cause for disciplinary action, up to and including dismissal.

9-93 Overtime Exceptions

Employees in overtime exempt classes as defined by the FLSA shall not receive overtime pay, except in the following situations:

- A. Based on community practice, the Personnel Director may recommend an exception to the overtime exclusion for a designated classification or classifications to the Board for approval.
- B. Career Service employees who work for the DHHA in exempt classifications in the Health Technical and Related Support, Health Professional, and Doctors occupational groups, when comparable classifications in the DHHA personnel system have been granted an exception to the overtime exclusion by the DHHA.
- C. Upon the request of an appointing authority, the Personnel Director may grant an exception to overtime exclusion for a specified period of time when the employee will provide services for the City during declared emergency conditions. Such exception shall apply to a position or group of positions within a classification where the working conditions are distinctly different than working conditions of other positions in the same classification and shall apply to the hours attributed to the emergency condition.
- D. Based on community practice, overtime shall be paid only under the circumstances outlined below to incumbents in the FLSA overtime exempt, first level supervisory classes approved by the Board:
 - 1. Scheduled overtime occurring in a holiday week;
 - 2. Overtime related to after-hour emergency response duties;
 - 3. Publicly scheduled events requiring infrastructure support; and
 - 4. Snow removal activities.

Section 9-100 Payment for Overtime

- A. Employees in salaried positions: Employees in positions in which annual salaries are established who are eligible to receive overtime pay and who work overtime shall receive overtime compensation as follows:
1. Non-exempt employees: The overtime rate shall be at the rate of one and one-half (1 ½) times the regular rate of pay applicable to that position.
 - a. The regular rate of pay shall be computed as follows:
 - (i) Determine the weekly rate of pay in accordance with the FLSA by dividing the annual salary by 52; then
 - (ii) Total the weekly rate of pay plus all payments for differentials, standby, and any other compensation required by FLSA to be included in the regular rate of pay for the work week, and divide by the number of hours the employee is regularly scheduled to work during a non-holiday week.
 - b. Compensatory time:
 - (i) Overtime compensation may be paid either in cash or in compensatory time off, at the discretion of the appointing authority. The appointing authority shall inform employees of the department or agency's overtime compensation policy. Compensatory time off shall be accrued at the rate of one and one-half (1-1/2) times the overtime hours worked. An employee who has accumulated eighty (80) hours of compensatory time and is required to work overtime shall be paid at the employee's regular rate for such overtime in cash. All accrued compensatory time shall be used by March 31st or paid out in cash by the final pay period of April of that year (Revised effective September 18, 2009; Rules Revision Memo 41C).
 - (ii) Payment for accrued compensatory time on separation: An eligible non-exempt employee who has accrued compensatory time in accordance with this section shall receive payment for the unused portion of such accrual when the employee is separated from the Career Service. The rate of compensation for such payment shall be the larger of the following:
 - 1) The average regular rate received by such employee during the last three years of the employee's employment; or
 - 2) The final regular rate received by such employee.

2. Exempt employees eligible to receive overtime: The overtime rate shall be:
- a. (i) At the rate defined in subparagraph 9-100 A.1 if eligible under paragraph 9-93 A.
 - (ii) At the rate established by the DHHA for comparable positions if eligible under paragraph 9-93 B.
 - (iii) At the straight time hourly rate of pay applicable to that position, if eligible under paragraph 9-93 C, where the hourly rate is computed by dividing the annual salary by 52 and then dividing by the regular hours of the position; and
 - (iv) At the rate of one and one-half (1 ½) times the hourly rate of pay applicable to that position if eligible under paragraph 9-93 D, where the hourly rate is computed by dividing the annual salary by 52 and then dividing by the regular hours of the position.
- b. How paid: Overtime compensation for eligible exempt employees shall be paid in cash. Exempt employees eligible for overtime shall not accrue or use compensatory time in lieu of pay, except for Holiday Compensatory Time as defined in Rule 10 **PAID LEAVE**.

B. Employees in hourly positions: Non-exempt employees in positions that receive an hourly rate and work overtime shall receive compensation at the rate of one and one-half (1 ½) times the regular rate of pay applicable to the position.

1. The regular rate of pay shall be computed as follows:
 - a. Multiply the hourly rate by the employee's actual hours of work in the work week to determine the weekly salary equivalent.
 - b. Total the weekly salary equivalent plus all payments for differentials, standby, and any other compensation required by FLSA to be included in the regular rate of pay for the work week, and divide by the number of hours the employee actually worked during that week.
2. How paid: Earned overtime compensation for employees in hourly positions shall be paid in cash.

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 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.

APPENDIX 9.A.

TELECOMMUTING GUIDELINES (REFERRED TO IN RULE 9-80 F)

- A. The position for which telecommuting is proposed shall be suitable for such an assignment, with the ability to provide high quality service to the public while telecommuting being the most significant determining factor.
- B. There shall not be any disruption of service or decline in the quality of services provided by the department or agency to the public as a result of telecommuting.
- C. No employee may telecommute unless their most recent performance rating is "Successful" or higher.
- D. If an employee subsequently receives a performance rating of "Failing" or "Below expectations", the employee's authorization to telecommute shall cease. (Revised effective January 1, 2010; Rule Revision Memo 43C)
- E. The employee shall agree not to engage in employment activities other than for the agency or department during telecommuting hours.
- F. The employee must designate a primary workspace at home that is maintained in safe condition, free from hazards. As an extension of the City's work site, the same insurance and workers' compensation coverage applies.
- G. When the employee uses his or her own equipment, the employee is responsible for maintenance and repair of that equipment.
- H. The employee will take all necessary precautions to secure department or agency information and equipment in his or her home and to prevent unauthorized access to any department or agency system or information.
- I. Employees must receive prior written approval to telecommute from their appointing authority.
- J. An employee's status, benefits, compensation, and work responsibilities shall not change due to telecommuting.
- K. Representatives from the City's Office of Technology Services, CSA, and Workers' Compensation section, a designated City supervisor or the individual appointed by the employee's appointing authority for such purpose may inspect an employee's home for a business purpose related to this program upon giving reasonable notice to the employee.
- M. The employee must at all times be accessible to the workplace via cellular phone, e-mail, or other means of direct communication and be able to report to work when notified or to respond immediately to communications from other staff, supervisors, managers or clients.

RULE 13
PAY FOR PERFORMANCE
(Revised effective January 1, 2010; Rule Revision Memo 43C)

Purpose statement:

The purpose of this rule is to explain the Performance Enhancement Program and how the individual performance of Career Service employees is evaluated, reported and rewarded with merit increases, or merit payments.

Section 13-10 Definitions:

- A. Performance Improvement Plan ("PIP"): A document which may be used at any time during an employee's evaluation period to supplement the employee's PEP plan that may include, but is not limited to, levels of performance that must be achieved to obtain a successful rating, current performance deficiencies, support that may be provided by the department or agency, actions the employee must take to address the performance deficiencies, and a timeline for completion of the actions.
- B. Anniversary date: The effective date of an employment appointment or a re-employment appointment to a full or part-time limited or unlimited position in the Career Service, whichever is later; or the effective date of a re-instatement appointment.
- C. Interim PEPR: A PEPR prepared prior to an employee's merit date whenever an employee permanently changes supervisors, either by promotion, re-promotion, transfer, demotion, re-assignment, or other action.
- D. Merit increase: Periodic increase to an employee's base rate of pay determined by an employee's PEP rating and current pay rate. (Revised effective October 17, 2010; Rule Revision Memo 47C)
- E. Merit payment: Lump sum payment of one percent (1%) of an employee's current annual salary (before any applicable withholding) determined by the employee's PEP rating and current pay rate. A merit payment will not increase an employee's base rate of pay. (Revised effective October 17, 2010; Rule Revision Memo 47C)
- F. Merit date: The date an employee's annual evaluation period concludes and the date an employee's PEPR is due. For employees hired prior to January 1, 2008, it is the PEPR Evaluation End date the employee had as of December 31, 2007. For employees hired or re-hired on or after January 1, 2008, the merit date will either be the sixteenth of the month in which the employee's anniversary date occurred or the first of the month following the employee's anniversary date, whichever date is closest after the anniversary date. Employees hired on the first or sixteenth of a month on or after January 1, 2008 will retain the date of hire as the employee's merit date.
- G. PEP plan: The written plan that is provided to an employee setting forth the performance standards and measures against which an employee's performance is evaluated each year in an employee's PEPR.

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- H. PEPR review date: The date an employee's PEPR is reviewed with an employee.
- I. Performance Enhancement Program (PEP): The performance evaluation system used by the City and County of Denver for Career Service employees.
- J. Performance Enhancement Program Report (PEPR): The report of an employee's performance evaluation that is provided to an employee each year by the employee's supervisor.
- K. Performance rating: The rating that is included in an employee's PEPR which is either "Outstanding," "Exceeds expectations," "Successful," "Below expectations," or "Failing."

Section 13-20 Performance Enhancement Program

The purposes of the Performance Enhancement Program ("PEP") are to outline job expectations, establish performance standards and measures, encourage and support professional development, provide on-going performance feedback, and evaluate performance.

- A. Upon appointment to a position, or the assignment of substantially different duties, the employee's supervisor shall complete a PEP plan and review it with the employee.
- B. The PEP plan may be used as a basis for disciplinary action under Rule 16 **DISCIPLINE AND DISMISSAL** if an employee's performance fails to comport with the standards set forth in the PEP plan.

Section 13-30 PEP Process

- A. PEP reporting requirement:
 1. All employees, except those holding on-call positions, shall have their performance formally evaluated and rated once a year.
 2. Each employee's performance rating shall be reflected in an official Career Service Authority ("CSA") PEPR form, which shall be reviewed with the employee and submitted to CSA no later than thirty (30) calendar days after an employee's merit date.
 3. Documentation specifically detailing the reason(s) for an employee's performance rating shall be provided to CSA and the employee. Failure to provide such documentation to CSA shall result in the PEPR being returned to the appointing authority.
 4. The PEPR and any supporting documentation shall be made a permanent part of the employee's official personnel record.

B. Interim PEPRs:

1. Whenever an employee permanently changes supervisors, either by promotion, re-promotion, transfer, demotion, re-assignment, or other action, an interim PEPR shall be completed by the employee's former supervisor immediately preceding the change. When the employee's current supervisor terminates employment with the City, the next level manager will be responsible for completing the interim PEPR. This report shall cover the period from the last merit date to the effective date of the transaction and shall be given to the receiving supervisor.
2. If an employee's supervisor or next level manager fails to complete an interim PEPR and submit to CSA within thirty (30) calendar days after the transaction date, a rating of "Successful" shall be granted for the relevant period.
3. The receiving supervisor shall prepare a PEPR for the period between the effective date of the interim PEPR and the merit date. The overall performance rating should take into account the performance rating on the interim PEPR and the employee's current performance in proportion to the time spent in each assignment. Nothing herein shall prevent an employee from receiving an overall annual rating of "Failing" or "Below expectations," even if the interim PEPR was "Successful," "Exceeds expectations" or "Outstanding."

C. Performance ratings:

An employee's overall performance shall be rated in an employee's PEPR as one of the following:

1. Failing: Work does not meet expectations in most, if not all, areas.
2. Below expectations: Meets many, but not all job requirements. Outcomes are generally less than expected, with improvement required in one or more specific areas.
3. Successful: Consistently achieved performance standards.
4. Exceeds expectations: Consistently performs well above expected job requirements. Outcomes frequently surpass expectations.
5. Outstanding: Consistently delivers outcomes not often achieved by others; always exceeds standards.

Section 13-40 "Failing" Rating Procedure

- A. If an employee's annual performance rating is expected to be "Failing," the department or agency shall advise the employee of the expected rating a reasonable time in advance, but not less than seven (7) calendar days prior to the PEPR review date, and shall allow representation at the meeting to review the PEPR in accordance with the provisions of Rule 15 **CODE OF CONDUCT**.
- B. If an employee's annual performance rating is "Failing," the employee will not be eligible for a merit increase or merit payment for that evaluation period unless the PEPR is more than thirty (30) calendar days late, in which case the provisions of paragraph 13-61 C Failure to file PEPR will determine the employee's eligibility for a merit increase.
- C. The employee shall be provided with a PIP no later than ten (10) calendar days after the PEPR review date.

Section 13-50 Grievances and Appeals Relating to PEPRs

- A. An employee may grieve any performance rating pursuant to Rule 18 **DISPUTE RESOLUTION**.
- B. An employee may appeal a grievance of a "Failing" rating in accordance with Rule 19 **APPEALS**. Appeals of grievances of other ratings are not permitted.
- C. An employee may not grieve or appeal any other aspect of the Performance Enhancement Program.

Section 13-60 Eligibility for Merit Increases and Merit Payments

(Revised effective October 17, 2010; Rule Revision Memo 47C)

- A. Eligibility for merit increases and merit payments is based on an employee's overall annual performance as measured by a PEPR. However, no employee shall receive a merit increase that exceeds the range maximum of the pay grade assigned to the employee's job classification. Employees who hold positions in classifications contained in the Undersheriff pay schedules are not eligible for merit increases or merit payments under this Rule 13.
- B.
 - 1. The funding for merit increases and merit payments is provided in the annual appropriation ordinance. The pay increase associated with a particular performance rating shall be reviewed annually and adjusted as necessary to reflect prevailing practices in the community. The award of merit increases and merit payments is contingent upon this annual appropriation being approved by City Council. In case of a conflict between ordinance and these rules, the ordinance will prevail.
 - 2. Merit increases and merit payments will not be awarded on PEPRs due in 2010.

- C. In the case of a declared fiscal emergency by the Mayor, and upon the request of the Mayor, there will be no merit increases or merit payments awarded for increments of at least one year. During the declared fiscal emergency appointing authorities, managers and supervisors shall complete PEPRs for employees, but no merit increases or merit payments will be awarded during this time.

13-61 Merit Date:

- A. General provision: If an employee is eligible to receive a merit increase or merit payment, it will be effective on the merit date.

- B. If a department or agency prepares an employee's PEPR after the merit date, any merit increase or merit payment to be awarded as a result of the performance rating shall be granted retroactively to the merit date.

C. Failure to file PEPR:

1. If a PEPR is not received in the office of CSA within thirty (30) calendar days after the merit date, a merit increase, equivalent to the pay increase the employee would have received for a "Successful" rating, shall be granted retroactively to the merit date. (Revised effective October 17, 2010; Rule Revision Memo 47C)
2. If the PEPR is received after the thirty (30) calendar days and it shows an "Exceeds expectations" or "Outstanding" rating, any corresponding increase in merit pay shall be granted retroactively to the merit date.
3. If the PEPR is received after the thirty (30) calendar days and it shows a "Below expectations" or "Failing" rating, the employee shall continue to receive the merit increase, if any, associated with a "Successful" rating, but the PEPR evidencing the "Below expectations" or "Failing" rating will become part of the employee's record.
4. Supervisors or managers who are responsible for the submission of PEPRs to CSA and file a PEPR more than thirty (30) calendar days after the merit date may be subject to discipline for failure to perform assigned duties.

13-62 On-call Employees and Employees in Other Pay Schedules
(Revised effective October 17, 2010; Rule Revision Memo 47C)

- A. On-call employees are not eligible for merit increases or merit payments.
- B. Positions in the community rate and short range pay schedules are on-call, accordingly, merit increases or merit payments are not available. However, employees in these schedules may receive a two and one quarter percent (2.25%) pay increase (not to exceed the range maximum of the applicable range) upon the approval of the appointing authority, except during a declared fiscal emergency, after having served:
 - 1. Two consecutive annual terms (an annual term is a minimum of three hundred (300) hours); or
 - 2. One term and completion of a certificate program as approved by the appointing authority.
- C. The Training pay schedule only has one pay rate; accordingly merit increases cannot be granted.

- B. Disciplinary action based on the pre-disciplinary meeting and other pertinent information obtained by the appointing authority shall be taken within fifteen (15) calendar days after the meeting. However, if an appointing authority presents to the Personnel Director documented extenuating circumstances requiring additional time, the Personnel Director may extend the date for taking disciplinary action for an additional ten (10) calendar days. A request for an extension of time must be sent to the Personnel Director prior to the expiration of the fifteen (15) day time period. If disciplinary action is not taken within the fifteen (15) day time period and a request for extension of time is not timely submitted to the Personnel Director, the agency must repeat the steps contained in section 16-40 before disciplinary action may be taken.
- C. A written notice of the disciplinary decision and the reasons for the disciplinary action being taken shall be served on the employee. The notice shall be considered served on the date shown on the certificate of hand delivery or mailing.
- D.
 - 1. A verbal reprimand may not be grieved or appealed.
 - 1. An employee may file a grievance of a written reprimand in accordance with Rule 18 **DISPUTE RESOLUTION**. An employee may not appeal a written reprimand to the Career Service Hearings Office.
 - 2. An employee may directly appeal a suspension, involuntary temporary reduction of pay, involuntary demotion or dismissal in accordance with Rule 19 **APPEALS**.

16-74 Guidelines for Involuntary Temporary Reduction of Pay
(Revised effective October 17, 2010; Rule Revision Memo 47C)

When an involuntary temporary reduction in pay is imposed on an employee, the employee's pay shall not be reduced:

- A. More than four and fifty-five hundredths percent (4.55%); or
- B. Below the range minimum of the employee's pay range; or
- C. For less than seven (7) pay periods; or
- D. For more than thirteen (13) pay periods.

Any merit increase or merit payment shall be based on the employee's normal rate of pay, not the employee's temporarily reduced rate of pay.