

**REVISION OF CAREER SERVICE RULE 13 PAY FOR PERFORMANCE
AND RELATED RULES**

PLEASE READ AS SOON AS POSSIBLE

TO: Appointing Authorities, Managers and Employees

FROM: Pete Garritt, HR Supervisor, Employee Relations and Records

DATE: December 20, 2010

SUBJECT: Revision of Career Service Rule 13 PAY FOR PERFORMANCE and related rules

CSA has been working with representatives from the Administration and City Council since 2009 in the Total Compensation Committee to change how pay and benefits are delivered to City employees. This committee proposed five modernizations to City's total compensation package. To date, three of these modernizations have been implemented:

- increasing the number of performance ratings from three to five;
- Establishing a PTO plan for new employees; and
- Simplifying pay ranges

The last two modernizations will be implemented at the beginning of 2011 with this rule revision. They are:

- Establishing a common performance review date; and
- Establishing a flexible merit (performance) increase table.

Under this rule revision, beginning in 2011, all eligible Career Service employees will be evaluated and will receive any applicable pay increases at the same time. Supervisors and managers are required to have evaluations of their employees' 2010 performance completed in mid-February 2011. Merit increases can be awarded within a range of percentages rather than the one fixed step(s) required under previous versions of this rule. Supervisors and managers will be required to recommend a percentage increase for each employee after completing their performance evaluations.

Departments and agencies will have approximately a month to submit spreadsheets with merit increase and merit payment information to CSA. Once that is done, supervisors can begin meeting with individual employees to discuss the employees' ratings. It is anticipated that employees will receive merit increases and merit payments by May 13th. Since merit increases and merit payments will have an effective date of January 2nd, employees will also receive back pay reflecting the amount of the pay increase between January and May.

In order to implement these changes the following revisions to Career Service Rule 13 PAY FOR PERFORMANCE have been made:

- **Employees on leave for a calendar year or more (i.e., employees on military leave or appointees on leave from Career Service job) will have their pay adjusted each year to reflect a “Successful” rating. Employees who miss part of a year will be evaluated on their performance during the time they were working.**
- **PEPRs that were due before January 1, 2011 will not be accepted after that date if they will result in a pay increase.**
- **Addition of a new merit table with a range of percentage increases associated with each rating above “Failing.”**
- **In 2011, the amount of increases for all eligible employees shall average 2.2%.**
- **Employees with “Outstanding” or “Exceeds expectations” ratings who are unable to receive their full merit increase because it would put them over the range maximum will receive a merit payment to make up for the lost merit increase up to 1%.**
- **Employees hired in the previous year will have merit increases and merit payments pro-rated based on the month hired.**
- **The effective date of merit increases and payments will be the first Sunday of the year for all Career Service employees as of December 31st of the previous year.**
- **There will no longer be forced merit increases.**
- **All eligible employees will be evaluated in the first quarter of year for their performance in the previous year.**
- **Supervisors and managers will have their merit increases reduced if they fail to comply with the timelines in the rule.**

MEMORANDUM

REVISION 51 SERIES C

TO: Holders of CSA Rule Books

FROM: Career Service Board

DATE: December 20, 2010

SUBJECT: Revisions to Career Service Rules

The Career Service Board has approved the following revisions to Career Service Rule 13 **PAY FOR PERFORMANCE** and related rules.

	<u>Page Number</u>	<u>Issuance Dates</u>
Remove: Entire Rule 13 Entire Rule 18	9-6 10-10 10-21 11-3, 11-8 13-1 through 13-6 18-1 & 18-2 18-3 18-4 & 18-5 18-6	October 14, 2010 December 29, 2009 September 21, 2010 December 29, 2009 October 14, 2010 January 1, 2006 May 19, 2008 January 1, 2006 March 17, 2006
Replace: Entire Rule 13 Entire Rule 18	9-6 10-10 10-21 11-3, 11-8 13-1 through 13-6 13.A.-1 18-1 through 18-5	December 20, 2010

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

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 receives a merit increase during the temporary assignment, the pay for the work assignment outside of job classification shall be re-calculated based on the employee's base pay including the merit increase. The re-calculated pay shall be effective on the effective date of the merit increase.
(Revised effective January 1, 2011; Rule Revision Memo 51C)
- 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 10-40 Administration of Paid Time Off and Sick and Vacation Ordinances

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

10-41 Length of Service

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

10-42 Effect of Appointment to Another Career Service Position

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

10-43 Using Paid Leave

(Revised effective January 1, 2011; Rule Revision Memo 51C)

- A. The amount of PTO or sick and vacation leave used shall be the amount of time an employee is scheduled to work when the leave is used.
- B. PTO or sick and vacation leave shall not be used before it is posted to the employee's account.

10-67 Administrative Leave

(Revised effective January 1, 2011; Rule Revision Memo 51C)

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

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

10-68 Occasional Time Off

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

C. Effect on health & supplemental benefits:

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

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

D. Break in service:

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

E. Completion of probationary period:

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

11-52 Return From Military Leave Without Pay
(Revised effective January 1, 2011; Rule Revision Memo 51C)

Employees returning from military leave without pay after an absence of ninety (90) days or less shall return to their former position. Employees returning after ninety-one (91) days or longer shall return to their former position or a job of equal status and pay, subject to the following provisions:

- C. Furloughs of non-exempt employees need not be taken in work day or work week increments but shall be debited in no less than two (2) hour increments.
- D. The Mayor may exempt certain employees of the Career Service from a mandatory furlough in order to maintain essential City services or for other necessary business reasons.
- E. At the expiration of the furlough, the employee shall return to the position held prior to the furlough.
- F. During the period of time in which the Mayor has declared mandatory furloughs, employees, upon the agreement and prior approval of their appointing authority, may take additional voluntary furlough days, up to a maximum of forty-five (45) voluntary furlough days. Employees are not required to take voluntary furlough days.
- G. Pay increases and employees benefits:
(Revised effective January 1, 2011; Rule Revision Memo 51C)

A mandatory furlough or voluntary furlough shall have no effect on the following:

1. City contributions to health, dental and life insurance during the furlough period;
 2. PTO, sick and vacation leave credits accrued during the furlough period;
or
 3. Holiday eligibility.
- H. Mandatory furlough or voluntary furlough shall not constitute a break in service. Failure to report promptly back to work after the expiration of a mandatory furlough or voluntary furlough may be grounds for discipline, up to and including dismissal from employment.
 - I. During the period of time in which there are mandatory furloughs, the first forty-five (45) days of unpaid FMLA or ADA Interactive Process Leave shall be treated as voluntary furlough days.
 - J. Nothing herein precludes the mayor from designating specific furlough days or otherwise determining how to implement mandatory furloughs.

RULE 13
PAY FOR PERFORMANCE
(Revised effective January 1, 2011; Rule Revision Memo 51C)

Purpose statement:

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

Section 13-10 Definitions:

- A. Eligible Employee: All Career Service employees are eligible for merit increases or merit payments as provided in this Rule, except:
1. On-call employees;
 2. Employees holding positions in the Training pay schedule, which only has one pay rate and cannot support merit increases; and
 3. Employees who hold positions in classifications contained in the Undersheriff pay schedules.
- B. Merit Increase: Periodic increase to an employee’s base rate of pay determined by an employee’s performance rating and location in the applicable pay range.
- C. Merit Payment: Lump sum payment of one percent (1%) of an employee’s current annual base salary provided to employees at the range maximum who receive either an “Outstanding” or “Exceeds expectations” rating. A merit payment will not increase an employee’s base rate of pay.
- D. 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.

Section 13-20 Performance Enhancement Program

13-21 Purpose

The purposes of the PEP are to outline job expectations, establish performance outcomes and measures, encourage and support professional development, provide on-going performance feedback, and evaluate performance in a timely manner.

13-22 Written PEP Plan

Upon appointment to a position, or the assignment of substantially different duties, an eligible employee's supervisor shall provide the employee with a written PEP plan setting forth the performance outcomes and measures against which an employee's performance is evaluated every year.

13-23 PEP Reporting

- A. All eligible employees shall have their performance for the previous calendar year formally evaluated and rated in a PEP Report ("PEPR"). This evaluation shall occur once every year according to the schedule attached as Appendix A.
- B.
 - 1. Eligible employees who have been absent from their position for less than a calendar year shall have their performance while present at work evaluated as provided in this rule.
 - 2. Eligible employees who have been on a leave of absence from their position for all of the preceding calendar year shall have their pay adjusted to reflect what they would have received with a "Successful" merit increase set at the mid-point of the applicable range for the quartile containing the employee's pay rate.

13-24 Interim PEPRs

- A. Whenever an eligible 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. The interim PEPR shall cover the period from the beginning of the year until the effective date of the transaction.
- B. If an employee's supervisor or next level manager fails to complete an interim PEPR and submit it to the receiving supervisor within thirty (30) calendar days after the transaction date, a rating of "Successful" shall be granted for the relevant period.
- C. The receiving supervisor shall prepare a PEPR for the period between the effective date of the interim PEPR and the end of the year. 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."

13-25 PEPRs from Previous Years

PEPRs that were due prior to 2011 will not be accepted by the Career Service Authority ("CSA") after December 31, 2010 if the rating awarded in the PEPR will result in a merit increase in excess of any forced merit increase the employee received when the PEPR first became overdue.

Section 13-30 PEP Process

13-31 Performance Ratings

- A. An eligible 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.
- B. "Failing" Rating Procedure:
1. If an eligible 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 date of the meeting scheduled to review the employee's PEPR, and shall allow representation at the meeting to review the PEPR in accordance with the provisions of Rule 15 **CODE OF CONDUCT**.
 2. The employee shall be provided with a PIP no later than ten (10) calendar days after the date the PEPR is reviewed with the employee.

13-32 Merit Increases and Merit Payments

- A. 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 and the Mayor. In case of a conflict between ordinance and these rules, the ordinance will prevail.
- B. Departments and agencies are responsible for determining the percentage increase associated with each employee rating within each quartile. The percent increase for all eligible employees shall average 2.2% for merit increases and merit payments delivered in 2011.
- C. Merit Table:
1. Eligibility for merit increases and merit payments is based on an eligible employee's overall annual performance rating as measured by a PEPR and the quartile in which the employee's pay is found in accordance with the following table:

Rating	1st Quartile	2nd Quartile	3rd Quartile	4th Quartile	Range Maximum
5. Outstanding	3.5-3.9%	2.9-3.3%	2.4-2.8%	1.9-2.3%	Merit Payment
4. Exceeds Expectations	2.9-3.3%	2.4-2.8%	1.9-2.3%	1.4-1.8%	Merit Payment
3. Successful	2.4-2.8%	1.9-2.3%	1.4-1.8%	0.8-1.2%	0.0%
2. Below Expectations	0.0-1.8%	0.0-1.2%	0.0%	0.0%	0.0%
1. Failing	0.0%	0.0%	0.0%	0.0%	0.0%

2. However, no eligible employee shall receive a merit increase that exceeds the range maximum of the pay grade assigned to the employee's job classification. If the application of this sub-paragraph results in an employee receiving a merit increase of less than one percent (1%) in connection with an "Outstanding" or "Exceeds expectations" rating, the employee shall receive the difference between the percentage merit increase received and one percent (1%) in the form of a merit payment.

- D. 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 eligible employees, but no merit increases or merit payments will be awarded during this time.

13-33 Pro-ration for New Hires

Employees hired after January in the previous year shall have their merit increase or merit payment reduced by 1/12th for the number of months after January their hire or re-hire date occurs. For instance, employees hired in February shall have their merit increase or merit payment for that year reduced by 1/12th. Employees hired in December shall have their merit increase or merit payment for that year reduced by 11/12^{ths}.

13-34 Effective Date of Merit Increase

Merit increases and merit payments will be effective on the first Sunday of the calendar year for eligible employees who were employed in the Career Service on December 31st of the previous year.

13-35 Enforcement of PEPR Schedule

- A. Departments and agencies shall submit proposed merit increases and merit payments to CSA as provided in the schedule attached as Appendix A.
- B. 1. If a supervisor's or manager's failure to meet the deadlines set forth in Appendix A is a contributing reason to an appointing authority's failure to meet the deadline for submitting recommended merit increases and merit payments to CSA for all of the appointing authority's eligible employees, the supervisor's or manager's rating shall be reduced as follows:
- a. If the supervisor or manager has missed a deadline, that supervisor's or manager's rating for the outcome related to the timeliness of PEPRs shall not exceed "Below expectations."
 - b. Once the supervisor or manager is more than one week late in meeting a deadline set forth in Appendix A, the overall performance rating that supervisor or manager would otherwise have received for the previous calendar year shall be reduced by one rating.
 - c. Each additional seven day period of delay shall result in the supervisor's or manager's rating being reduced one rating for each additional seven day period.

2. An appointing authority may request that the Career Service Personnel Director grant a supervisor or manager who is more than one week late in meeting a deadline set forth in Appendix A, relief from the operation of this paragraph 13-35 B, due to a showing of extenuating circumstances beyond the reasonable control or advance knowledge of the employee.
- C. The failure of a supervisor or manager to meet the deadlines set forth in Appendix A may also be grounds for discipline, up to and including dismissal, for failure to perform assigned duties under Rule 16 **DISCIPLINE AND DISMISSAL**.

13-36 Review of PEPR with Employee

Each employee's PEPR shall be reviewed with the employee as provided in the schedule attached as Appendix A.

13-37 Official Records

The PEPR and any supporting documentation shall be made a permanent part of the employee's official personnel record.

13-38 Discipline

The PEP plan and PEPR may be used as a basis for disciplinary action under Rule 16 **DISCIPLINE AND DISMISSAL**, up to and including dismissal, if an employee's performance fails to comport with the standards set forth in the PEP plan.

13-39 Grievances and Appeals Relating to PEPRs

- A. An eligible employee may grieve any performance rating pursuant to Rule 18 **DISPUTE RESOLUTION**.
- B. An eligible 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 eligible employee may not grieve or appeal any other aspect of the PEP.

13-40 Employees in the Community Rate and Short-range Pay Schedules

Employees holding 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:

- A. Two consecutive annual terms (an annual term is a minimum of three hundred (300) hours); or
- B. One term and completion of a certificate program as approved by the appointing authority.

**APPENDIX A
2010 PEPR SCHEDULE**

DUE DATE	TASK
February 17, 2011	Deadline for performance evaluations for 2010 calendar year to be completed by subordinate supervisors and managers.
March 8, 2011	<p>First day for appointing authorities to submit merit increase and merit payment recommendations for all agency employees to CSA. The percent increase for all eligible employees in a department or agency should average 2.2% for merit increases and merit payments delivered in 2011.</p> <p>Supervisors may begin meeting with employees to review PEPRs and merit increase amount once CSA has reviewed and approved merit increase and merit payment recommendations.</p>
March 31, 2011	Deadline for appointing authorities to submit merit increase and merit payment recommendations to CSA. All eligible employees must be accounted for in these recommendations.
April 15, 2011	Last day for supervisors to review PEPRs and merit increases or merit payments with employees.
May 13, 2011	Merit increases and merit payments appear on employee paychecks paid retro-actively from January 2 nd .

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

Page issuance date: December 20, 2010
Effective date: January 1, 2011

RULE 18
DISPUTE RESOLUTION
(Effective January 1, 2006; Rules Revision Memo 3C)

Purpose Statement

The purpose of this rule is to provide a process to resolve workplace issues at the lowest possible level (the level which they occur). The City expects employees and supervisors to use the dispute resolution process in good faith. Retaliation against those who participate in the dispute resolution process in good faith is prohibited.

Section 18-10 Definitions

For the purposes of the Career Service Rules (“Rules”), the following terms apply:

A. Open Door Policy:

An open door policy encourages employees and supervisors/managers to communicate informally and directly.

B. Mediation:

A voluntary process in which a trained mediator assists parties involved in work-related issues to reach a mutually acceptable agreement.

C. Grievance:

An issue raised by a Career Service employee relating to actions/inactions taken by the employee’s supervisor/manager that violate the employee’s rights under the Rules, the City Charter, ordinances relating to the Career Service, executive orders, or written agency policies. Notwithstanding the above definition, the following may not be grieved:

1. Issues for direct appeal (see Rule 19 **APPEALS**);
2. Complaints of discrimination, harassment or retaliation, because there is a separate process for an employee to follow to bring a complaint involving discrimination, harassment or retaliation (see Rule 15 **CODE OF CONDUCT**);
3. Verbal reprimands;
4. Any aspect of the Performance Enhancement Program other than an employee’s performance rating. (Revised effective January 1, 2011; Rule Revision Memo 51C)
5. Bonus or incentive payments, or the lack thereof, or the criteria used by an agency or department to make or not make such payments, or any other aspect of the bonus or incentive program; and
6. The mediation process.

D. Supervisor/manager

When the term “supervisor/manager” is used in this Rule 18 and in Rule 19 **APPEALS**, it shall mean any person has been granted or delegated decision-making authority to take action on behalf of the appointing authority.

Section 18-20 Open Door Policy Process

- A. The City encourages employees to informally and directly discuss work-related issues with their direct supervisors.
- B. If this does not resolve the concern, then the employee is encouraged to bring the issue to the attention of the employee’s manager/director, appointing authority, human resource representative, or a member of the Career Service Authority (“CSA”) Employee Relations Unit.
- C. The utilization of the Open Door Policy Process does not suspend the timelines for filing a grievance.

Section 18-30 Mediation Process

If any employee or supervisor/manager has a work-related issue that was not taken to or resolved through the open door process, mediation may be requested.

A. Requesting Mediation

(Effective May 19, 2008; Rules Revision Memo 27C)

- 1. An employee, supervisor or manager may request mediation by submitting a Mediation Request Form to the Career Service Mediation Program (“Mediation Program”). The Mediation Program will notify the other parties.
- 2. Parties are encouraged to participate in mediation. If either party declines to participate in mediation, then the declining party must notify the other party, the appointing authority or designee and the Mediation Program in writing the reason(s) for declining within 10 calendar days of receiving notice of the request for mediation from the Mediation Program. The notification shall include a certificate of service.
- 3. If all parties agree to mediation, the Mediation Program will assign a mediator.
- 4. No less than seventy-two (72) hours prior to the date of the mediation all parties must be informed of any representatives attending the proceedings.

B. Protection of Grievance Rights:

1. If a mediation request is submitted within fifteen (15) calendar days of an action or inaction giving rise to a grievance as defined in paragraph 18-10 C, the time to file a grievance is suspended. Should the grievant wish to continue with the grievance process, the grievance must be filed within seven (7) calendar days following the date of the termination of the mediation process.
2. If a mediation request is submitted after the filing of a timely grievance, the time to respond to the grievance is suspended. Should the grievant wish to continue with the grievance process, the agency must respond to the grievance within seven (7) calendar days following the termination of the mediation process.

C. Permanent Adjournment

Permanent adjournment occurs when the mediator issues a written statement to the parties indicating the mediation is permanently adjourned.

D. Termination of the Mediation Process

Termination of the mediation process occurs on either the date of mailing or delivering the notice of permanent adjournment or the written notice of refusal to mediate or the withdrawal of the mediation request.

E. Communications During Mediation not Admissible in Legal Proceedings

All proceedings held pursuant to or taken in conjunction with mediation are considered confidential. This confidentiality shall be specifically acknowledged and agreed to by each party to mediation prior to the commencement of mediation. No testimony concerning discussions had at or during the mediation shall be admissible in any Career Service hearing. The nature and scope of the confidentiality of discussions, documents and other materials presented at the mediation in furtherance thereof shall be governed by the terms of the Colorado Dispute Resolution Act, C.R.S. 13-22-307, Sections 1 through 4 inclusive, as it may be amended.

Section 18-40 Grievance Procedure

If a work-related issue was not taken to or resolved through the open door policy or mediation, and a Career Service employee has a grievance as defined in paragraph 18-10 C of this rule, the following procedures shall apply:

A. Notice to Employees

The department or agency must post or provide to all employees a copy of this procedure, the name and telephone number of the department or agency designee(s) who may accept grievances, and the acceptable methods of delivery of grievances. If the department or agency fails to appoint a department or agency designee, the appointing authority shall be deemed to be that department or agency's designee.

B. Filing of Grievance

In order to file a grievance an employee must:

1. Prepare and complete all sections of the official CSA grievance form.
2. Deliver the grievance to the department or agency designee within fifteen (15) calendar days after notification of the action or inaction which gives rise to the grievance. If the grievance is mailed, it must be received within the fifteen (15) calendar days.
3. Employees must use their own personal time when preparing grievances unless they are granted permission by their supervisors to use paid work time.

C. Responding to Grievance

The department or agency shall consider the grievance and within fifteen (15) calendar days following receipt of the grievance provide the employee a dated, written notice of a decision. The written decision shall contain a certificate of mailing or certificate of hand delivery which indicates the date the decision was mailed or hand delivered to the employee.

D. Computation of Time:

The period of time shall be computed as follows (all time periods are calendar days):

1. The date of notification of the action or inaction shall be the date the employee knew or should have known of the action or inaction.
2. The period of time for filing the grievance starts on the day following the date of notice of the action or inaction.
3. The date for responding to a grievance starts on the day following receipt of the grievance

4. If the final date for filing or responding to a grievance falls on a day the CSA office is not open for business, the final date shall be construed to be the next working day.
5. The grievance filing or response period ends at 5:00 p.m. on the final date.

E. Filing with Career Service Hearing Office:

1. Only grievances in conformance with and processed pursuant to the requirements of this Rule 18 may be appealed. Notwithstanding other provisions in these rules, written reprimands and PEPR ratings of "Below expectations" or higher may not be appealed. (Revised effective January 1, 2011; Rule Revision Memo 51C)
2. If the department or agency has not responded within fifteen (15) calendar days of the delivery of the grievance, and the employee wants to pursue the action/inaction giving rise to the grievance further, the employee may appeal within fifteen (15) calendar days to the Career Service Hearing Officer ("Hearing Officer") in accordance with the provisions of Rule 19 **APPEALS**.
3. If the department or agency fails to implement a remedy awarded in the grievance response, the employee must notify the department or agency designee in writing of their intent to file an appeal within seven (7) calendar days following the date the employee knew or should have known of the department or agency's failure to implement the remedy. If the department/agency designee fails to implement the remedy within fifteen (15) calendar days, the employee may appeal within fifteen (15) calendar days to the Hearing Officer in accordance with the provisions of Rule 19 **APPEALS**.
4. If a grievance negatively impacts an employee's pay, benefits or status and is not resolved to the satisfaction of the employee, the employee may appeal within fifteen (15) calendar days to the Hearing Officer in accordance with the provisions of Rule 19 **APPEALS**.