

MEMORANDUM

REVISION 55 SERIES D

TO: Holders of Career Service Rule Books

FROM: Career Service Board

DATE: August 27, 2019

SUBJECT: Revision of Career Service Rule 10

The revisions to Career Service Rule 10 were approved by the Career Service Board on August 15, 2019 and are effective August 27, 2019. Please insert the following pages in your rule book as soon as possible. Thank you.

<u>Page Numbers to Remove</u>	<u>Page Numbers to Insert</u>
Page 10-2 Page issuance date: May 22, 2018	Page 10-2 Page issuance date: August 27, 2019
Page 10-4 Page issuance date: May 9, 2016	Page 10-4 Page issuance date: August 27, 2019
Page 10-5 Page issuance date: May 9, 2016	Page 10-5 Page issuance date: August 27, 2019
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- C. Partner in a Civil Union: As defined in section 14-15-103 (5) of the Colorado Revised Statutes.
- D. Immediate family: Spouse, partner in a civil union or domestic partner (“partner”), child, parent, grandparent, grandchild, sibling, child-in-law, parent-in-law, sibling-in-law, and the child, parent, or sibling of the partner. The terms child, parent, and sibling shall apply equally to relationships by birth, adoption, marriage, foster care, or guardianship (e.g. step-children and step-parents). Child shall also include children for whom the officer or employee or the officer's or employee's spouse or partner provide day-to-day care or financial support, and a child lost through stillbirth. (Revised August 27, 2019; Rule Revision Memo 55D)

Source: D.R.M.C. § 18-122.

10-12 Designees

Appointing authorities, including the Office of Human Resources (“OHR”) Executive Director, may delegate any authority given to them under this rule to a subordinate employee.

10-13 Applicability to Deputy Sheriff Classifications

None of the provisions of this Rule 10 (except election leave, donated leave and investigatory leave) shall apply to Career Service employees who hold positions in classifications in the Sheriff pay schedules (Deputy Sheriff, Deputy Sheriff Sergeant, Deputy Sheriff Captain, Deputy Sheriff Major, and Deputy Sheriff Division Chief).

10-14 References to the Denver Revised Municipal Code (“DRMC”)

This Rule 10 incorporates parts of the DRMC solely for informational purposes as a convenience to readers of this rule. Excerpts from the DRMC will be clearly identified as such and are not intended to be made a part of this rule. DRMC excerpts include a reference to the applicable section and are labeled “**Source: DRMC § ____.**” Should the applicable provisions of the DRMC change, the reference to the that provision in this Rule 10 may be changed without going through the rule change process described in Rule 2 **OFFICE OF HUMAN RESOURCES**. In case of a conflict between the DRMC and the provisions of this rule, the DRMC will prevail.

Section 10-20 Paid Time Off (“PTO”)

10-21 Eligibility

All eligible Career Service employees hired or re-employed by the City after December 31, 2009 shall receive PTO with the exception of:

- A. Part-time employees who are regularly scheduled to work less than twenty (20) hours per week; and
- B. Employees occupying on-call positions.

Source: D.R.M.C. §18-123

- B. Absences from work because of authorized medical examinations or treatment related to an occupational injury or occupational disease arising out of and within the course and scope of employment with the City for which the City has admitted liability or has agreed to permit medical treatment while investigating the claim shall be treated as time worked. The employee shall make a reasonable effort to schedule the examination or treatment so as not to unduly disrupt the operations of the department or agency.

10-25 All Other PTO Uses

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

10-26 Maximum Accumulation and Pay-out of PTO

- A. PTO earned by an employee shall be deposited in their PTO bank. PTO may not be accumulated in the PTO bank in excess of four hundred (400) hours. (Revised August 27, 2019; Rule Revision Memo 55D)

Source: D.R.M.C. §18-124 and 127(a)

- B. Exceeding the PTO Accumulation Limit:

Ordinarily an employee at the PTO leave accumulation limit of four hundred (400) hours cannot accumulate any additional PTO. However, if the appointing authority is unable to allow an employee who has accumulated the maximum hours of PTO to use PTO because of workload, the appointing authority shall request that the OHR Executive Director allow the employee to exceed the maximum amount. The employee must use the excess over four hundred (400) hours in the employee's PTO bank within one year of the approval date.

C. Employees who elected to voluntarily convert from sick and vacation leave to PTO leave on February 1, 2010 were required to convert their sick and vacation leave balances into a special leave bank. PTO used by an employee shall be debited from the employee's PTO bank first unless it has been exhausted or if the employee requests that the special leave bank be used first. This special leave bank cannot:

1. Exceed 400 hours; or
2. Be replenished.

Source: D.R.M.C. §18-124

D. Upon separation, a PTO recipient shall be paid at their regular rate of pay for the unused portion of their accumulated PTO bank and special bank if applicable. (Revised August 27, 2019; Rule Revision Memo 55D)

Source: D.R.M.C. §18-127(b)

Section 10-30 Sick and Vacation Leave

10-31 Eligibility

All eligible Career Service employees who:

- A. Were receiving paid sick and vacation leave on December 31, 2009;
- B. Remain continuously employed by the city; and
- C. Have not voluntarily elected to receive PTO benefits:

Shall be entitled to continue to receive paid sick and vacation leave so long as the officer or employee does not become:

- A. A part-time employee who is regularly scheduled to work less than twenty (20) hours per week; or
- B. An employee occupying an on-call position.

Source: D.R.M.C. §18-131

- B. 1. Employees with up to ten (10) years of service may accumulate up to two hundred eighty-eight (288) hours of vacation leave. Employees with ten (10) or more years of service may accumulate up to three hundred thirty-six (336) hours of vacation leave.

2. Exceeding the Vacation Accumulation Limit:

Ordinarily an employee at the vacation leave accumulation limit cannot accumulate any additional vacation leave. However, if the appointing authority is unable to allow an employee who has accumulated the maximum hours of vacation leave to use vacation leave because of workload, the appointing authority shall request that the OHR Executive Director allow the employee to exceed the maximum amount. The employee must use the excess over the vacation leave accumulation limit within one year of the approval date.

10-36 Sick and Vacation Leave Pay Upon Separation

A. Sick leave:

1. The following table applies to the pay-out of sick leave upon separation for any reason other than death or retirement:

Full years Of service	Payout formula	
<5	No pay out	
5	Sick leave balance minus	(5 X 40 hrs.) or 200 hrs.
6	Sick leave balance minus	(6 X 40 hrs.) or 240 hrs.
7	Sick leave balance minus	(7 X 40 hrs.) or 280 hrs.
8	Sick leave balance minus	(8 X 40hrs.) or 320 hrs.
9	Sick leave balance minus	(9 X 40hrs.) or 360 hrs.
>10	Sick leave balance minus	(10 X 40hrs.) or 400 hrs.

2. Upon separation due to retirement or death, an employee shall be paid at their regular rate of pay for one-half (1/2) of all accumulated sick leave credits existing on the effective date of separation or death, or in accordance with the method described above, whichever is higher, but not to exceed five hundred sixty (560) working hours. (Revised August 27, 2019; Rule Revision Memo 55D)

B. Vacation leave:

Employees shall be paid at their regular rate of pay for the unused portion of their accumulated vacation leave upon separation from employment.

Source: D.R.M.C. §18-134

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

10-41 Effect of Appointment to a Career Service 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 to the new position, so long as there is no break in service.

Source: D.R.M.C. §18-126 & §18-133

10-42 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 paid position in any City department or agency other than the Classified Service of Police and Fire, the Denver Water Board, on-call positions, and contract 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.

10-43 Using Paid Leave

- A. The amount of PTO or sick and vacation leave used shall be the amount of time an employee is absent from their scheduled shift(s). (Revised August 27, 2019; Rule Revision Memo 55D)
- B. PTO or sick and vacation leave shall not be used before it is accrued and posted to the employee's account.
- C. Employees may take PTO, sick leave, and vacation leave in increments of at least fifteen (15) minutes.

10-44 Reporting and Investigation of Leave Used for Sickness or Injury

- A. If an employee is absent for reasons that entitles the employee to use PTO or sick leave without appointing authority approval, the employee or a member of the employee's household shall notify the employee's supervisor as soon as possible but at least within two (2) hours after the employee's usual reporting time. Appointing authorities may establish reporting procedures which differ from the standard for an entire agency, for specific units, or for individual employees in order to meet special program needs or workloads.
- B. If an employee fails to notify the employee's supervisor or agency head, no PTO or sick leave shall be authorized, except in unusual circumstances, to be determined by the appointing authority.

- C. Appointing authorities may investigate the alleged illness of an employee using PTO or sick leave without appointing authority approval. False or fraudulent use of PTO or sick leave shall be cause for disciplinary action and may result in dismissal.
- D. An employee who is using PTO or sick leave for more than three (3) days because of their own illness or that of a member of their immediate family may be required to furnish a statement signed by attending physician, or other proof of illness satisfactory to the appointing authority. An appointing authority may require this statement or proof for an absence chargeable to PTO or sick leave without appointing authority approval, of any duration. If an appointing authority, supervisor, or employee has reason to believe that the absence may be a qualifying event under the FMLA, they should contact human resources. (Revised August 27, 2019; Rule Revision Memo 55D)

10-45 Donating Leave

- A. A Career Service employee may donate sick leave to another Career Service employee provided that the employee donating sick leave:
 - 1. Has been earning sick leave from the City continuously for the last five years; and
 - 2. Retains a sick leave balance of at least two hundred forty (240) hours after the donation.
- B. A Career Service employee may donate PTO to another Career Service employee provided that the employee donating PTO retains a PTO balance of at least eighty (80) hours after the donation.
- C. A Career Service employee may donate PTO or sick leave to a non-Career Service City employee provided that the recipient employee's department or agency and any applicable collective bargaining agreement allow employees to receive donations of leave from Career Service employees and provided that the applicable donor requirements have been met.
- D. A Career Service employee may donate PTO or sick leave to, or receive donated sick leave from, an employee covered by the Sheriff pay schedules to the extent permitted by the applicable collective bargaining agreement and provided that the donor and recipient requirements applicable to the non-Sheriff employee have been met.
- E. Recipient requirements:
 - 1. Before an employee can receive donated leave, the employee (or the employee's representative) must provide notice to the Department of Finance that the employee anticipates a need for donated leave. Such notice shall estimate how much donated leave the employee expects to use in the current calendar year. Should the employee need more donated leave beyond the

original estimate, the employee shall provide notice of this to the Department of Finance before the employee can receive additional donations.

2. In order to use donated leave, an employee must:
 - a. Have exhausted their accumulated compensatory time, sick leave and vacation leave or PTO or personal holiday, be absent from work and;
 - i. Be receiving salary continuation leave, or temporary disability benefits under the provisions of the Workers' Compensation Act. In either of these situations, the employee may only use donated leave to make up the difference between the employee's base salary, and the total of other paid leave received and the temporary disability benefits the employee is receiving;
 - ii. Be receiving leave as an accommodation because of the employee's pregnancy, physical recovery from childbirth, or related condition;
 - iii. Be receiving approved FMLA leave;
 - iv. Be receiving approved FCA leave;
 - v. Be receiving approved ADA leave; or
 - vi. Have received written notice of a contemplation of medical disqualification meeting. The employee may use donated leave until medical disqualification occurs or until the end of the period in which a decision on medical disqualification must be issued, whichever occurs first.
- (Revised August 27, 2019; Rule Revision Memo 55D)
3. Donated leave can be used to cover absences that occur up to fifteen (15) calendar days before the leave was posted to a recipient's account so long as the other conditions of this section have been met.
4. A Career Service employee may receive donated leave from a non-Career Service City employee provided that the donor employee's department or agency allows employees to donate leave to Career Service employees and that the recipient requirements listed above have been met.

10-48 Effect of Re-instatement and Re-employment on PTO and Sick Leave Balance

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

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

(Revised August 27, 2019; Rule Revision Memo 55D)

Section 10-50 Bereavement Leave

A. Employees receiving PTO:

Employees who receive PTO benefits shall be granted up to forty (40) hours of paid bereavement leave because of the death of a member of the employee's immediate family. This forty (40) hours of bereavement leave shall not count against the employee's PTO bank.

Source: D.R.M.C. §18-128

B. Employees receiving sick leave:

Employees receiving sick leave shall be entitled to use up to forty-eight (48) hours of sick leave because of the death of a member of an employee's immediate family.

C. Additional Bereavement Leave:

An appointing authority may grant additional paid or unpaid leave for bereavement.

10-65 Holiday Pay for Employees on Special Work Schedules

If the holiday falls on an employee's regularly scheduled work day and the work day is scheduled to be more than eight hours long, one of the following choices shall be selected by the employee, subject to approval by the appointing authority, to make up for the difference between the length of the work day missed and the eight hours of paid holiday leave allowed:

- A. Hours may be deducted from the employee's administrative leave granted for exemplary performance, earned compensatory time, earned paid time off, or earned vacation leave;
- B. The employee may work additional hours within the work week; or
- C. The employee may take the hours as unpaid leave.

10-66 Compensation for Hours Worked in a Holiday Week

- A. In a week in which a holiday occurs, full-time employees receive eight hours of holiday leave and are expected to work (or use leave) for the remaining thirty-two (32) hours. Part-time employees are expected to work (or use leave) during the time left after the employee's paid holiday leave is deducted from the hours they are normally expected to work in a week.
- B. In addition, employees in classifications in exempt pay schedules shall receive straight time holiday compensatory time for the hours the employee actually works:
 - 1. a. On the day the employee is scheduled to observe the holiday that week, or
 - b. On any of the employee's scheduled days off in a week when a holiday occurs; and

The employee is not entitled, under Rule 9 **PAY ADMINISTRATION**, to receive overtime for working on the holiday or regularly scheduled day off in that holiday week. (Revised August 27, 2019; Rule Revision Memo 55D)

- 2. In no event shall an employee receive more hours of holiday compensatory time than the employee would have been entitled to receive as paid holiday leave in a holiday week.
- 3. Employees shall only receive holiday compensatory time to the extent that the combination of hours worked and paid leave used (including paid holiday leave) during a holiday week exceeds forty (40) hours.

10-74 Election Leave

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

Source: C.R.S. §1-7-102

10-75 Court Leave

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

(Revised August 27, 2019; Rule Revision Memo 55D)