

**MEMORANDUM**

**REVISION 58 SERIES D**

**TO:** Holders of Career Service Rule Books

**FROM:** Career Service Board

**DATE:** September 18, 2020

**SUBJECT:** Revision of Career Service Rules 9, 11 and 16

The revisions to Career Service Rules 9, 11 and 16 were approved by the Career Service Board on September 17, 2020 and are effective September 17, 2020. Please insert the following pages in your rule book as soon as possible. Thank you.

<b><u>Page Numbers to Remove</u></b>	<b><u>Page Numbers to Insert</u></b>
Page 9-21 CSR 9-73 Page issuance date: March 26, 2020	Page 9-21 CSR 9-73 Page issuance date: September 17, 2020
Pages 11-4 through 11-8 CSR 11-27 Page issuance date: Varies	Pages 11-4 through 11-9 CSR 11-27 Page issuance date: September 17, 2020
Pages 16-1 through 16-2 CSR 16-10 A&B Page issuance date: March 26, 2020	Page 16-1 through 16-2 CSR 16-10 A&B Page Issuance date: September 17, 2020
<b>(Note:</b> Due to repagination, pages 11-4 through 11-8 in Rule 11 are all being replaced.)	

9-72 Posting of Changes in Work Schedules  
(Re-numbered October 10, 2008; Rule 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 (Revised September 21, 2010; Rule Revision Memo 49C; and June 17, 2011; Rule Revision Memo 55C).
- 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 City-wide Emergency Pay and Redeployment  
(Effective June 8, 2007; Rule Revision Memo 20C; Re-numbered October 10, 2008; Rule Revision Memo 32C; Emergency Rule Revision Effective March 26, 2020; Effective September 17, 2020; Rule Revision Memo 58D)

- 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. Employees may be re-deployed to work in other capacities in their own agencies or in other City agencies to support core functions of the City during a City-wide emergency declared by the Mayor. Non-exempt employees shall be paid at their regular rate of pay for actual hours worked in a re-deployment assignment, and shall be eligible for overtime in accordance with Section 9-90 Overtime. Exempt employees eligible for overtime shall be paid their regular salaries during any workweek in which they are re-deployed, and shall be eligible for overtime in accordance with 9-93 Overtime Exceptions. Exempt employees not eligible for overtime shall be paid their regular salaries during any workweek in which they are re-deployed. Nothing in this rule prevents the City from authorizing additional pay for some or all employees working in redeployment assignments during a City-wide emergency declared by the Mayor.

Employees who were on other leave such as paid time off, vacation, compensatory time, sick, or unpaid leave at the time of a work interruption 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.

## 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 OHR Executive 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 OHR Executive 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.

## 11-26 Leave for Victims of Violence

Employees may use up to three days of unpaid leave to address issues arising from violence the employee has suffered (as defined in Executive Order 112), including but not limited to, obtaining a restraining order, obtaining medical care or counseling, locating safe housing, or preparing for or attending legal proceedings. The employee may elect to use available paid leave, instead of unpaid leave, to cover the absence. Appointing authorities may authorize the use of additional leave, or temporarily adjust an employee's work schedule to allow a victim of violence to obtain necessary medical care, housing, counseling, legal, or other related assistance.

## 11-27 Budget Required Furlough

(Emergency Rule Revision Effective May 26, 2020, expires November 22, 2020; Revised September 17, 2020; Rule Revision Memo 58D)

The following rules apply when the Mayor of the City and County of Denver decides to furlough city employees, or to allow appointing authorities to furlough employees of their agencies, due to budgetary reasons.

- A. This Rule is intended to comply with the Fair Labor Standards Act regulation 29 C.F.R. § 541.710, which permits furloughs for budgetary reasons without affecting the exemption status of an overtime exempt employee except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced. Exempt employees become non-exempt employees during any week that a furlough day is taken. Furlough hours are not considered hours worked for purposes of calculating overtime.
- B. Furlough days are based on an eight-hour workday. In order to ensure the cost savings that furloughs are intended to achieve, during the workweek in which an employee takes one or more furlough days, the furlough hours taken and hours actually worked plus any paid leave taken (including holidays and comp time used) should not total more than forty (40) hours. An employee who exceeds this 40-hour limitation will not get full credit for the furlough hours taken in that week. Instead, those furlough hours will be reduced in proportion to the overage and have to be made up on another date, preferably within the same payroll period.
- C. Scheduled furlough days declared by the Mayor will be taken in eight (8) hour increments, unless an employee receives supervisory approval to work part of the day and make up the remaining hours at a later time, preferably within the same payroll period. The Department of Finance will determine how furloughs declared by the Mayor, other than scheduled furlough days, will be implemented, including whether they may be taken in less than eight (8) hour increments. When the Mayor has allowed an appointing authority to furlough employees, the appointing authority may determine how such furloughs will be implemented.

- D. The Mayor may exempt certain employees and/or classifications from mandatory furloughs in order to maintain essential City services or for other necessary business reasons.
- E. During the period of time in which the Mayor has declared mandatory furloughs, employees may take additional voluntary furlough days with the prior approval of the employee's appointing authority. Except as otherwise provided, the same rules apply to voluntary furloughs that apply to mandatory furloughs.
- F. If the Mayor decides to impose, or allows an appointing authority to impose, an extended furlough of 30 consecutive days or more, the number of consecutive furlough days taken shall not count towards the probationary period of employees on employment probation when placed on the extended furlough. Such employees will resume their probationary period upon returning from the extended furlough. This suspension of the probationary period during an extended furlough shall not be considered an extension of employment probation under Rule 5-34.E.
- G. If an employee on extended furlough of 30 consecutive days or more obtains other employment, the employee must promptly submit to their supervisor and/or OHR either a request for approval of outside employment in accordance with the Denver Code of Ethics or a notice of resignation effective no later than one day prior to the first day of their new employment.
- H. Maintenance of benefits:
  - 1. During furloughs of three (3) consecutive months or less:
    - a. employees will continue to earn PTO, or sick and vacation leave, and
    - b. receive paid holiday leave for observed holidays, even if the workday immediately preceding and/or immediately following the holiday is a scheduled furlough day, and
    - c. the City will continue paying its share of the employee's health, dental, and life insurance premiums.
  - 2. For furloughs exceeding one (1) month, the employee must arrange for payment of the employee's portion of the employee's health, dental, and life insurance premiums as well as supplemental insurance coverages such as vision and supplemental life insurance by executing a deduction agreement allowing the City to make monthly deductions from the employee's accrued paid leave (PTO or vacation leave) and holiday leave accruals equal to the amount of employee owed premiums.
  - 3. If an employee resigns employment or is laid off from the City during or after an extended furlough of 30 consecutive days or more, the City will deduct any unpaid employee benefit premiums from the employee's accrued paid leave and holiday leave accrual prior to the payout of those amounts as addressed in CSA Rules 10-26 and 10-36.

4. After three (3) consecutive months of extended furlough, the employee may apply for benefits through COBRA.
- I. Nothing herein precludes the Mayor from designating specific furlough days or otherwise determining how to implement furloughs.

#### Section 11-30 Unpaid Military Leave

- A. Employees who continue in military service beyond the initial one hundred twenty (120) hours for which paid military leave is allowed under Rule 10 **PAID LEAVE** shall be placed on unpaid military leave.
- B. This rule is intended to comply with and be interpreted consistently with the Uniformed Services Employment and Reemployment Rights Act ("USERRA"). To the extent an issue is not addressed in this rule, or to the extent this rule is inconsistent with the USERRA, the USERRA and its corresponding regulations shall govern.
- C. Requests for unpaid military leave may be made verbally or in writing, and shall be made in advance, when possible. If an employee is unable to provide advance notice due to military necessity, the employee may give notice after starting duty.
- D. Employees who are called to active military duty with written orders for services exceeding one hundred and seventynine (179) days because of war or national emergency may be eligible for a military pay differential.

#### 11-31 Granting Unpaid Military Leave

Unpaid military leave shall be subject to the following provisions:

A. Duration:

Unpaid military leave shall be granted for the duration of active military service not to exceed five (5) years plus ninety (90) days from the date of discharge, subject to exceptions set forth in USERRA and its corresponding regulations.

B. Maintenance of Benefits:

1. First Thirty Days of Military Leave:

The first thirty (30) consecutive days of military leave (paid and unpaid) shall have no effect on the following:

- a. City contributions to health, dental, and life insurance; and
- b. Accrual of PTO or sick and vacation leave, and holiday eligibility.

2. After Thirty Days of Military Leave:

- a. 1. Employees on military leave (paid and unpaid) for thirty-one (31) days or longer, are eligible for health benefit coverage from the military. In addition, an employee on military leave for thirty-one (31) days or longer may continue his or her individual and/or family coverage under the City's group health plan for the duration of military leave. Employees opting for continuing coverage under the City's group health plan are responsible for paying 100% of the premium costs.
2. During military leave, the employee may continue supplemental insurance coverage(s), such as dental, vision, and supplemental life insurance, for the duration of military leave. Employees opting for continuing supplemental insurance coverage are responsible for paying 100% of the premium costs.
- b. Paid time off ("PTO"), sick and vacation leave shall not be earned during military leave that lasts over thirty (30) consecutive calendar days, and employees on such extended leave will not be eligible for paid holiday leave.

C. Employees may use any available paid leave (except sick leave) for some or all of their unpaid military leave.

D. Break in service:

Unpaid military leave shall not constitute a break in service.

E. Completion of probationary period:

(Revised October 19, 2018; Rule Revision Memo 46D)

A probationary employee who is on unpaid military leave before or during the employee's probationary period shall be required to complete the remainder of their probationary period when the employee returns to work.

11-32 Return from Unpaid Military Leave

Employees returning from unpaid military leave 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:

- A. Due date for notice of return:  
Upon completing military service, an employee on military leave (whether paid or unpaid) must notify his or her appointing authority of the employee's intent to return to work. The amount of notice required depends on the amount of time served.
1. Employees who served longer than one hundred eighty (180) days shall give notice within ninety (90) days after completing service.
  2. Employees who served thirty-one (31) to one hundred eighty (180) days shall give notice within fourteen (14) days after completing service.
  3. Employees who served less than thirty-one (31) days shall give notice within three (3) days after completing service.
- B. Certificate of satisfactory completion of military service:  
A return from unpaid military leave shall be conditional upon submission of a certificate confirming release from active duty under honorable conditions.
- C. Effect of hospitalization for service connected medical condition:  
In the event that the employee was hospitalized after military discharge for medical conditions which occurred during the military service, the employee's unpaid military leave shall be extended up to two (2) years. Application for return from unpaid military leave must be made within ninety (90) days after the employee's medical provider releases him or her to return to work. Extensions beyond two (2) years may be granted.
- D. Qualifications for return from military service:  
The employee must be physically and mentally qualified and possess the necessary skills, knowledge and/or training to perform the essential functions of the position to which the employee is returning with or without reasonable accommodations. The City will provide appropriate training to returning employees.
- E. Effect of service connected disability:  
If the employee is not qualified to perform the essential functions of the position with or without reasonable accommodations by reason of disability sustained during active military service, the appointing authority may transfer the employee to any other available position, the duties of which the employee is qualified to perform and which will provide like seniority, status and pay, or the nearest approximation thereof, as the employee achieved in the position from which he or she was granted military leave.



F. Effect of failure to give notice for return:

Failure to give notice for return from unpaid military leave within the time limits stated may be considered a resignation.

11-33 Military Pay Differential

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

**RULE 16  
CODE OF CONDUCT  
AND DISCIPLINE**

(Revised February 12, 2016; Rule Revision Memo 18D)

Purpose statement:

The purpose of this rule is to provide Career Service employees clear expectations for their conduct in an effort to maintain the public trust; to promote both public and workplace safety; to promote equal employment opportunity without regard to race, color, religion, national origin, sex, sexual orientation, gender identity and expression, disability, genetic information, military status, age, marital status, political affiliation, or any other status protected under federal, state and/or local law; and to establish a progressive discipline process that is governed by the principles of due process, personal accountability, reasonableness and sound business practice. This rule contains information on the following topics:

- A. Delegation of authority
- B. Compliance with Code of Ethics and Executive Orders
- C. Harassment and discrimination
- D. Employee responsibility to report charges, convictions, and nolo contendere pleas
- E. Use of City facilities
- F. Political activities
- G. Employee organization and representation
- H. Recording devices in the workplace
- I. Grounds for discipline
- J. Investigatory leave
- K. Disciplinary process

(Revised September 21, 2017; Rule Revision Memo 28D)

Section 16-10 Service of Written Notice and Computation of Time

(Emergency Rule Revision Effective March 26, 2020, expires September 22, 2020; Effective September 17, 2020; Rule Revision Memo 58D)

- A. Written notices required to be served on an employee under this Rule 16 shall be served on the employee by one or more of the following:
  - 1. In person with a certificate of hand delivery;
  - 2. By first class U.S. mail, with a certificate of mailing to the employee's last known address; or
  - 3. By email, delivery receipt requested, to the employee's City email address or the employee's personal email address. This rule does not require that a delivery receipt be received in order to effect service.

Page issuance date: September 17, 2020

- B. The computation of any time period stated in days in these rules shall be as follows:
1. The time period begins on the day after the event that triggers the time period.
  2. The time period shall include all calendar days including weekends and holidays.
  3. The time period ends at the close of business on the final day of the time period.
  4. If the final day of the time period falls on a weekend day, a holiday, or other day when the department or agency in question is not open for business, the time period shall end on the next working day.

#### Section 16-15 Delegation of Authority

Appointing authorities may delegate in writing any authority given to them under this Rule 16 to a designee within his or her department or agency.

#### Section 16-20 Code of Conduct

##### 16-21 Compliance with Code of Ethics and Executive Orders

- A. All employees shall comply with the City Charter, the Denver Revised Municipal Code, and other applicable legal authority, including but not limited to:
1. The Denver Code of Ethics, which regulates:
    - a. Employment and supervision of family members;
    - b. Gifts to City employees;
    - c. Conflicts of interest while employed;
    - d. Outside employment or business activity; and
    - e. Use of public office for private gain.
  2. Any provisions in the Denver Charter regarding ethical conduct of employees;
  3. Any stricter or additional Code of Ethics promulgated by an employee's department or agency as authorized by the Denver Code of Ethics; and