

MEMORANDUM

RULE REVISION 71D

TO: Holders of Career Service Rule Books

FROM: Career Service Board

DATE: August 20, 2021

SUBJECT: Revision of Career Service Rule 10-72 – Administrative Leave

Career Service Rule 10-72 was revised on August 19, 2021. Please replace the pages in your books for the rule as soon as possible. Thank you.

| <u>Page Numbers to Remove</u> | <u>Page Numbers to Insert</u> |
|---|---|
| Pages 10-19 through Page 10-27 CSR 10-72 | Pages 10-19 through 10-27 CSR 10-72 Page issuance date: August 20, 2021 |

4. At the discretion of the appointing authority, straight time pay may be substituted for the holiday compensatory time. Holiday compensatory time may be taken at any time mutually convenient to the employee and the appointing authority. However, all accrued holiday compensatory time shall be used by March 31st of each calendar year or paid out in cash by the final pay period of April of that year.

Section 10-70 Other Paid Leave

10-71 Compensatory Time (Revised April 9, 2018; Rule Revision Memo 38D)

Compensatory time earned under the provisions of **Rule 9 PAY ADMINISTRATION** maybe taken at any time mutually convenient to the employee and the appointing authority. However, all accrued compensatory time shall be used by March 31st of each calendar year or paid out in cash by the final pay period of April of that year. An eligible non- exempt employee who has accrued compensatory time in accordance with Section 9-90 shall receive payment for the unused portion of such accrual at the final regular rate of compensation received by such employee when the employee is separated from the Career Service.

10-72 Administrative Leave

- 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 Mediation Program. Administrative leave shall be granted to employees who participate in mediation either as a party or as the mediator; or
 3. To represent another City employee at meetings with that employee's supervisor or manager, as set forth in Rule 16 **CODE OF CONDUCT AND DISCIPLINE**. 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 by the employee's supervisor.
- 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 OHR Executive Director. The OHR Executive 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.

- C. Unused Administrative Leave shall not be paid out to an employee upon separation from the City and may not be donated to another employee at any time.

10-73 Paid Military Leave

- A. All probationary and career status employees in the Career Service shall be eligible for up to fifteen (15) days, but not to exceed one hundred twenty (120) hours of paid military leave each calendar year for the time the employee is engaged in military training or service.
- B. Notification Requirement: Employees engaged in military service or training requiring military leave shall provide notice in advance to their appointing authority, when possible. If the employee is unable to provide advance notice because of military necessity, the employee may give notice after starting duty.
- C. Employees who continue in military service beyond the time for which paid military leave is allowed shall be placed on unpaid military leave, which is covered by Rule 11 **UNPAID LEAVE**.

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

- 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.

10-76 Investigatory Leave

An appointing authority may place an employee on paid investigatory leave pending an investigation of a possible rule violation or failure to meet standards of performance as provided in Rule 16 **CODE OF CONDUCT AND DISCIPLINE**. Investigatory leave may be for no more than forty-five (45) calendar days, unless an extension of time has been approved by the OHR Executive Director.

10-77 Training Leave

- A. Appointing authorities may grant paid training leave. Any training program for which such leave is granted must be job-related, which includes career development training that will prepare the employee for advancement with the City.
- B. Appointing authorities may grant training leave for the purpose of attending institutes, seminars, or educational courses related to an employee's work for extended periods of time, at the appointing authority's discretion.

- C. Appointing authorities shall allow paid trainees and paid interns to arrange their work schedule if they need to attend classes during normal working hours. Paid trainees and paid interns are not entitled to training leave while attending classes for the degree or certificate program they are required to complete during their training or internship period. (Revised November 18, 2015; Rule Revision Memo 15D)
- D. Use of training leave by employees shall be arranged whenever possible during regularly scheduled work hours. Appointing authorities who require attendance at training activities during off-duty hours that are designed to increase the competencies, knowledge, skills and abilities of employees for the position which they presently occupy shall temporarily change the affected employee's standard work hours to include the training schedule. Employees who are required to attend such training during off-duty hours shall be granted paid training leave for the time spent in training.
- E. For the purposes of this subsection, on-line training courses shall be treated the same as classroom training sessions.
- F. Employees must present proof of attendance at any training for which they are authorized to receive training leave.

10-78 Occasional Time Off

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

Section 10-80 Colorado Healthy Families and Workplaces Act ("CHFVA") Sick Leave (Revised December 17, 2020; Rule Revision 65D)

10-81 CHFVA Sick Leave Policy

It is the policy of the City to provide paid sick leave to its employees. This rule is intended to comply with and be interpreted consistent with the CHFVA and the corresponding rules, regulations and opinions issued by the Colorado Department of Labor and Employment. To the extent an issue is not addressed herein, or if there is a conflict with a Career Service Rule, the CHFVA and its corresponding rules, regulations and opinions shall govern.

10-82 CHFVA Sick Leave

- A. "CHFVA Sick Leave" is sick leave paid pursuant to the Colorado Healthy Families and Workplaces Act, SB 20-205, Colorado Revised Statutes § 8-13.3-403, to on-call employees and part-time employees who normally work fewer than 20 hours per week.
- B. Employees who earn CHFVA Sick Leave shall accrue such leave at the rate of one hour of CHFVA Sick Leave for every 30 hours worked.

- C. Employees who earn CHFVA Sick Leave may not accrue or use more than 48 hours of paid sick CHFVA Sick Leave each year. Up to 48 hours of CHFVA Sick Leave that an employee accrues in a year, but does not use, may carry forward to and may be used in a subsequent year, except that the employee may not use more than 48 hours of CHFVA Sick Leave in a year.
- D. An employee may use CHFVA Sick Leave for the following situations:
1. The employee has a mental or physical illness, injury or health condition that prevents the employee from working;
 2. The employee needs to care for a family member who has a mental or physical illness, injury or health condition that prevents the employee from working;
 3. The employee or the employee's family member needs to obtain a medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition;
 4. The employee or the employee's family member needs to obtain preventative medical care;
 5. The employee or the employee's family member has been the victim of domestic abuse, sexual assault or harassment and the use of leave is to:
 - a. Seek medical attention for the employee or the employee's family member to recover from a mental or physical illness, injury or health condition caused by the domestic abuse, sexual assault, or harassment;
 - b. Obtain services from a victim services organization;
 - c. Obtain mental health or other counseling;
 - d. Seek relocation due to the domestic abuse, sexual assault or harassment; or
 - e. Seek legal services, including preparation for or participation in a civil or criminal proceeding relating to or resulting from the domestic abuse, sexual assault, or harassment.
 6. Due to a public health emergency, a public health official has ordered closure of the school or place of care of the employee's child and the employee needs to be absent from work to care for the employee's child.
- E. Employees receiving CHFVA Sick Leave shall not be paid out the balance of any such accumulated leave upon separation from the City. However, if an employee receiving CHFVA Sick Leave separates from employment and is rehired within six months after the separation, the employee's CHFVA Sick Leave balance shall be reinstated.

- F. The amount of CHFVA Sick Leave used shall be the amount of time an employee is absent from their regularly scheduled shift(s).
- G. CHFVA Sick Leave shall not be used before it is accrued and posted to the employee's account.
- H. Employees may take CHFVA Sick Leave in increments of at least fifteen (15) minutes.

10-83 Colorado Public Health Emergency ("CPHE") Sick Leave

A. Supplement

- 1. In addition to any PTO, sick leave and CHFVA Sick Leave an employee may accrue, an employee may be eligible to receive a one-time supplement of paid sick leave in the event of a Public Health Emergency.
- 2. On the date a Public Health Emergency is declared, each employee may have his or her available paid sick leave supplemented in a CPHE Sick Leave bank to ensure the employee is able to take a total of 80 hours of paid sick leave as follows:
 - a. Employees who receive PTO or sick leave and have 80 hours or more of accumulated leave on the date the Public Health Emergency is declared shall not receive any additional paid sick leave.
 - b. Employees who receive PTO or sick leave and have fewer than 80 hours accumulated in their PTO or sick leave banks on the date the Public Health Emergency is declared shall have their CPHE Sick Leave bank supplemented as follows:
 - (1) Full-time employees (those who normally work 40 hours or more in a week) shall have their CPHE Sick Leave banks supplemented by the difference between the number of hours accumulated in their PTO or sick leave banks and 80 hours so that the total amount of leave available to the employee is 80 hours.
 - (2) Part-time employees (those who work fewer than 40 hours in a week) shall receive a supplement in the amount of the greater of:
 - (a) the number of hours the employee is scheduled to work in a 14-day period; or
 - (b) the number of hours the employee actually works on average in a 14-day period.
 - c. Employees who receive CHFVA Sick Leave will have their CPHE Sick Leave bank supplemented by the difference between the number of hours already accumulated in their CHFVA Sick Leave bank on the date the Public Health

Emergency is announced and 80 hours, such that the total amount of paid leave available is 80 hours.

3. Employees are only eligible to receive a supplement of CPHE Sick Leave once during a Public Health Emergency, even if the Public Health Emergency is amended, extended, restated, or prolonged.
4. CPHE Sick Leave may be used from the day on which the Public Health Emergency is declared until four weeks after the official termination or suspension of the Public Health Emergency.
5. An employee may use the full amount of supplementary CPHE Sick Leave prior to using any of the employee's previously-accrued PTO, sick leave, or CHFVA Sick Leave, as long as the supplementary leave is used for any authorized use of CPHE Sick Leave as described in Section 10-83.B.
6. An employee's previously-accrued PTO, sick leave or CHFVA Sick Leave may be used for any purpose listed in Section 10-83.B. for the entire duration of the Public Health Emergency and for four weeks after the date of the official termination or suspension of the emergency declaration.

B. Authorized Uses of CPHE Sick Leave

1. An employee may use CPHE Sick Leave related to a Public Health Emergency for the employee's need to:
 - a. Self-isolate and care for oneself because the employee is diagnosed with a communicable illness that is the cause of a Public Health Emergency;
 - b. Self-isolate and care for oneself because the employee is experiencing symptoms of a communicable illness that is the cause of a Public Health Emergency;
 - c. Seek or obtain medical diagnosis, care or treatment if the employee is experiencing symptoms of a communicable illness that is the cause of a Public Health Emergency; or
 - d. Seek preventative care concerning a communicable illness that is the cause of a Public Health Emergency.
2. An employee may use CPHE Sick Leave related to a Public Health Emergency to care for a family member who:
 - a. Is self-isolating after being diagnosed with a communicable illness that is the cause of a Public Health Emergency;
 - b. Is self-isolating due to experiencing symptoms of a communicable illness that is the cause of a Public Health Emergency;

- c. Needs medical diagnosis, care, or treatment if experiencing symptoms of a communicable illness that is the cause of a Public Health Emergency; or
 - d. Is seeking preventative care concerning a communicable illness that is the cause of a Public Health Emergency.
- 3. An employee may use CPHE Sick Leave if the employee's Appointing Authority, or a local, state or federal public official, or a health official having jurisdiction over the City and County of Denver, determines that the employee's presence on the job or in the community would jeopardize the health of others because:
 - a. The employee has been exposed to a communicable illness that is the cause of the Public Health Emergency; or
 - b. The employee is exhibiting symptoms of the communicable illness, regardless of whether the employee has been diagnosed with the communicable illness.
- 4. An employee may use CPHE Sick Leave to care for a family member if a local, state or federal public official having jurisdiction over the location where the family member's employer is located, or if the family member's employer, determines that the employee's family member's presence on the job or in the community would jeopardize the health of others because:
 - i. The employee's family member has been exposed to the communicable disease that is the subject of the Public Health Emergency; or
 - ii. The employee's family member is exhibiting symptoms of the communicable illness, regardless of whether the family member has been diagnosed with the communicable illness.
- 5. An employee may use CPHE Sick Leave to care for a child or other family member when:
 - a. The child's or family member's care provider is unavailable due to a Public Health Emergency;
 - b. The child's or family member's school or place of care has been closed by a local, state or federal public official due to a Public Health Emergency;
 - c. The child's or family member's school or place of care has been closed at the discretion of the school or place of care due to a Public Health Emergency, including if the school or place of care is physically closed but providing instruction remotely.
- 6. An employee may use CPHE Sick Leave due to an inability to work because the employee has a health condition that may increase susceptibility to, or risk of, a communicable illness that is the cause of the Public Health Emergency.

C. Documentation and Notice

1. An employee is not required to provide documentation in order to take CPHE Sick Leave.
2. An employee shall notify his or her supervisor of the need for CPHE sick leave as soon as practicable when the need for CPHE Sick Leave is foreseeable.

Section 10-85 Retaliation and Discrimination Prohibited
(Revised December 17, 2020; Rule Revision 65D)

- A. It is a violation of this rule to retaliate, interfere with, or discriminate against any current or former employee because that individual has:
1. Requested, taken, attempted to take, or supported another employee taking any type of paid sick leave;
 2. Filed a complaint with the Colorado Department of Labor and Employment or any court; or
 3. Participated or cooperated in an investigation, hearing, or proceeding brought by the Colorado Department of Labor and Employment.
- B. It is a violation of this rule to count paid sick leave taken by an employee as an absence that may lead to or result in discipline, termination, demotion, suspension, or any other retaliatory personnel action against the employee. Nothing in this rule, however, prevents an employee from being disciplined for using paid sick leave for purposes other than allowed herein.

Section 10-86 Confidentiality and Record Keeping
(Revised December 17, 2020; Rule Revision 65D)

- A. Any information regarding the health of an employee or the employee's family member, or regarding domestic abuse, sexual assault, or criminal harassment affecting an employee or employee's family member, must be treated as confidential and may not be disclosed to any other individual except the affected employee, unless the employee provides written permission prior to such disclosure.
- B. If the confidential information is in writing, it shall be maintained on a separate form and in a separate file from other personnel information.