

MEMORANDUM

REVISION 19 SERIES D

TO: Holders of Career Service Rule Books

FROM: Career Service Board

DATE: May 9, 2016

SUBJECT: Revision of Career Service Rules 10 **PAID LEAVE**, 11 **UNPAID AND EXTENDED LEAVE**, and related rules.

The Career Service Rules review project continues to make progress. The project will modernize our rules for a more progressive city, update them for the changes we've made in the city in recent years, remove duplication and redundancies, and consolidate rules wherever possible. The following information provides an update on the most recent rules changes. The following changes and revisions to Rules 10 and 11 were approved by the Career Service Board on May 5, 2016:

- Career Service Rule 10 **PAID LEAVE**
- Career Service Rule 11 **UNPAID LEAVE**
- Career Service Rule 12 **LEAVE FOR EXTENDED ILLNESSES OR INJURIES (new)**

The following is a summary of the rule changes, their intention and impact. Also included are new rule pages to replace outdated information along with insertion instructions for Career Service Rule Books.

Please refer to the following tables for information on the former rule description, the revised rule description and the intended impact of the revisions for Rules 10, 11 and 12.

Rule 10 PAID LEAVE			
CURRENT RULE	REVISED RULE	NEW RULE NUMBER	REVISION INTENTION & IMPACT
'Domestic partner' definition is in Rule 1.	Moved to Rule 10.	10-11 B	Definition will be in the rule where the term is used.
Unnecessarily goes into great detail about who is covered.	Simplifies 'immediate family' definitions.	10-11 C	To shorten the lengthy 'immediate family' definition.
No current rule.	Describes applicability of Rule 10 to Deputy Sheriffs.	10-13	Clarifies area of the rules that is murky because of collective bargaining.
Ordinance provisions are quoted in boxes.	Eliminates boxes; ordinance language is incorporated into the body of the rule.	10-21 through 10-62	Improves flow of the rule.
Bereavement provisions contained in	Separates bereavement section	10-50	Will be easier to find bereavement rule.

PTO and sick and vacation rules.	from PTO and sick and vacation sections.		
No current provision in court leave rule.	Expands court leave to cover situations where an employee is subpoenaed by the city to testify in court.	10-75 A.2	Supports city's interest in having necessary witnesses testify in court.

Rule 11 UNPAID LEAVE			
CURRENT RULE	REVISED RULE	NEW RULE NUMBER	REVISION INTENTION & IMPACT
No current rule.	Add section covering leave for victims of violence.	11-26	Creating specific rule provision to reflect state law and Executive Order requirements.
Required school-related parental leave.	Remove parental leave requirements.	None	Parental leave state law was eliminated by the legislature.
All unpaid leave provisions are contained in Rule 11.	Moved disability, Workers' Compensation, FMLA and ADA leave provisions to new Rule 12.	Rule 12	Puts rules dealing with extended absences due to illness or injury together in the same place.

Rule 12 LEAVE FOR EXTENDED ILLNESSES OR INJURIES			
CURRENT RULE	REVISED RULE	NEW RULE NUMBER	REVISION INTENTION & IMPACT
No current rule.	Contains ADA interactive process (IAP) rule from Rule 5; and disability, Workers' Compensation, FMLA and ADA leave rules from Rule 11.	Rule 12	Consolidates rules dealing with extended absences due to illness or injury together in the same place.
City FMLA leave covers care for immediate family members that is not required by Federal law.	New rule will be more consistent with FMLA in that FMLA leave for care of family members will only cover spouses, domestic partners, children and parents.	12-21	Significantly reduces employee ability to take 12 weeks of city FMLA in addition to 12 weeks of Federal FMLA.

City cannot begin IAP until after an employee with a Workers' Compensation claim reaches Maximum Medical Improvement (MMI).	Allows the city to start IAP before an employee has reached MMI if it is determined that the employee will not be able to return to work.	12-36 C	Shortens the period of time before a disqualification can begin for employees who will never be able to return to work.
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	Page Number	Issuance Dates
Remove:		
Remove entire Rule 1	1-1 through 1-5 1-6 3-6	November 18, 2015 February 12, 2016 November 18, 2015
Remove entire Rule 10	5-1, 5-12 through 5-17 10-1 through 10-12 10-13 10-14 10-15 10-16 through 10-19 10-20 10-21 10-22	November 18, 2015 January 7, 2013 February 12, 2016 January 7, 2013 February 12, 2016 January 7, 2013 February 12, 2016 January 7, 2013 February 12, 2016 November 18, 2015 February 12, 2016
Remove entire Rule 11	11-1 through 11-16 11.A.-1, 11.A.-2, 11.B.-1 14-6	January 7, 2013 January 7, 2013 January 7, 2013
Replace with:		
Replace with entire Rule 1	1-1 through 1-5 3-6 5-1, 5-12	May 9, 2016
Replace with entire Rule 10	10-1 through 10-20	
Replace with entire Rule 11	11-1 through 11-8	
Insert entire Rule 12	12-1 through 12-12 14-6	

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

RULE 1
DEFINITIONS

(Revised May 9, 2016; Rule Revision Memo 19D)

These definitions shall apply wherever the following terms are used in the personnel rules:

Administrative class:

A class in which the duties and responsibilities meet the following criteria:

- A. Performance of office or non-manual work directly related to management policies or general business operations; and
- B. Regular exercise of discretion and independent judgment; and
- C.
 - 1. Regular and direct assistance to a bona fide executive or administrator; or
 - 2. Performance, under only general supervision, of work along specialized or technical lines requiring special training, experience, or knowledge; or
 - 3. Execution, under only general supervision, of special assignments and tasks; and
- D. No more than 20% of hours worked in a work week are devoted to activities which are not directly and closely related to the performance of the work in paragraph a) through c) above (Effective May 1, 1974; Rule Revision Memo 83A).

Agency:

A unit of government identified by a "fund organization" number in an appropriation ordinance (Effective December 15, 1988; Rule Revision Memo 118B).

Appointing authority:

A municipal official designated by the annual appropriation ordinance to approve expenditures for a given appropriation; hence the official authorized to appoint employees to be paid from such appropriation. Such an official may designate an agent to act for him as an appointing authority (Effective May 16, 1956; Rule Revision Memo 16A).

Appropriation:

An authorization by the City Council to a specified agency to expend a specified sum of money from a specified fund during a specified period for a specified purpose (Effective May 16, 1956; Rule Revision Memo 16A).

Appropriation sub-account:

Includes all divisions of appropriations recognized by the Office of Budget and Management, up to and including the lowest level of the account code at which expenditures and revenues are recorded, the tracking level (Effective March 19, 2004, Rule Revision Memo 247B).

Break in service:

Any lapse of working time between the official separation of an employee and his subsequent re-hiring (Effective May 16, 1956; Rule Revision Memo 16A).

Career Service:

All employees of the City and their positions subject to the exceptions in the City Charter (relevant sections have been attached as an appendix to Rule 5 **APPOINTMENTS AND STATUS**) (Effective June 8, 2007; Rule Revision Memo 19C).

Career Service Board:

The board created by the Denver City Charter to direct the Career Service (Effective August 15, 1979; Rule Revision Memo 113A).

Career Service employee:

The incumbent of a position in the Career Service (Effective May 16, 1956; Rule Revision Memo 16A).

City:

City and County of Denver (Effective December 15, 1988; Rule Revision Memo 118B).

Class series:

The arrangement in sequence of classes that are alike in the kind but not in level. For the purposes of lay-off, a class series shall include first line supervisors and lead workers, if so designated for the class series (Effective May 16, 1956, Rule Revision Memo 16A; Revised March 19, 2004, Rule Revision Memo 247B).

Continuous service date:

The effective date of an employment appointment or a re-employment appointment in the career service, whichever is later; or the effective date of appointment from a re-instatement list plus credits for service prior to lay-off. This definition does not affect employee rights to paid time off, sick leave and vacation leave as established in the Revised Municipal Code or the Career Service Rules (Revised January 1, 2010; Rule Revision Memo 42C).

Documented performance:

A verifiable assessment of an individual's work performance, including PEPR ratings, disciplinary actions, and safety violations (Effective March 19, 2004; Rule Revision Memo 247B).

Effective date:

The date when a personnel action takes effect (Revised May 7, 2012; Rule Revision Memo 62C).

Entry level professional class:

Any class where the principal minimum qualifications for education and experience are a college degree and no experience. These are identified as entry level by the word "staff" as part of the title (Effective September 1, 1989; Rule Revision Memo 129B).

Executive class:

A class in which the duties and responsibilities meet the following criteria:

- A. Primary duty consists of the management of the agency or appropriation account, or of a customarily recognized subdivision or section thereof; and
- B. Regular direction of the work of two or more other employees therein, and
- C. Authority to hire or fire other employees, or suggestions or recommendations as to the advancement and promotion or any other change of status of other employees will be given particular weight, and
- D. Regular exercise of discretionary powers, and
- E. No more than 20% of hours worked in a work week are devoted to activities which are not directly and closely related to the performance of the work described in paragraphs a) through d) above; provided that this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated establishment (Effective May 1, 1974; Rule Revision Memo 83A).

Fringe benefits:

Paid time off, vacation leave, holiday leave, sick leave, payments for injuries or sickness received in the line of duty, health insurance, life insurance, pensions, termination pay, uniform and equipment allowances, dependents' benefits, longevity pay, and any other financial or economic benefits which are found by the Office of Human Resources to be the prevailing practice in the Denver metropolitan area (Revised January 1, 2010; Rule Revision Memo 42C).

Incumbent:

The current occupant of a position in the Career Service (Effective May 16, 1956; Rule Revision Memo 16A).

Lay-off:

The involuntary separation of a career status unlimited employee, or a limited employee appointed prior to January 16, 2004, resulting from the abolishment of a position (Effective September 18, 1980; Rule Revision Memo 127A; Revised March 19, 2004; Rule Revision Memo 247B).

Lay-off unit:

An appropriation account, appropriation sub-account, combinations of appropriation sub-accounts, or combinations of appropriation accounts for the purposes of lay-off (Effective November 1, 1979; Rule Revision Memo 115A: Revised March 19, 2004; Rule Revision Memo 247B).

Length of Service:

Total number of years, months and days of continuous service, (for examination purposes) including time an employee is on unpaid leave, but exclusive of service in on-call status positions (Revised May 9, 2016; Rule Revision Memo 19D).

Month of service:

The period of time between a given date in one month and the preceding day in the following month (e.g., April 16 through May 15) (Effective October 12, 1981; Rule Revision Memo 19B).

Office of Human Resources:

The agency created by the Denver Revised Municipal Code to administer the Career Service (Effective January 7, 2013, Rule Revision Memo 1D).

Professional class:

A class in which the duties and responsibilities meet the following criteria:

- A. Primary duties consist of the performance of:
 - 1. Work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes; or
 - 2. Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee; or (Effective March 2, 1982; Rule Revision Memo 30B)
 - 3. Teaching, tutoring, instructing, or lecturing in the activity or imparting knowledge, as a teacher in the school system or educational establishment or institution; and
- B. Work requires the consistent exercise of discretion and judgment in its performance; and
- C. Work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and
- D. No more than 20% of hours worked in the work week are devoted to activities which are not an essential part of and necessarily incident to work described in paragraphs a) through c) above.
(Effective May 1, 1974; Rule Revision Memo 83A).

Re-instatement List:

Employees shall be placed on the re-instatement list for the classification they have been laid off from, demoted in lieu of lay-off from, or have voluntarily resigned or voluntarily demoted in lieu of lay-off from. The re-instatement list shall only be used within the Lay-off Unit the employee was in when the lay-off took place (Effective May 4, 2007; Rule Revision Memo 18C).

Staggered work schedule:

The assignment of differing reporting times to individual employees (Effective November 14, 1978; Rule Revision Memo 104A).

3-35 Assessment Scores

- A. Minimum Score: The OHR Executive Director must decide how assessments are scored and what score is needed to pass.
- B. Multiple part assessments: The OHR Executive Director may decide that by failing one part of a multiple part assessment, a candidate has failed the assessment and the other parts of the assessment cannot be taken.
- C. Final Rating: Final ratings must be based on the total or combined assessment score.
- D. Veterans' Points: Points must be added to passing scores of eligible candidates, who are not employees, as required by the Veterans' Preference provision of the Colorado Constitution (relevant portions are attached as an Appendix).
- E. Notice to candidates: Each candidate shall be provided with access to their assessment scores.
- F. Confidentiality of score: Assessment scores are confidential and shall not be made available to any person outside the OHR except the appointing authority in connection with a referral, and the candidate. The candidate assessed may, in writing, allow the OHR to release his or her assessment scores to others. Assessment scores may also be released pursuant to court order or an appropriate subpoena.

3-37 Request for review

Applicants and candidates for employment or promotion in the Career Service who are dissatisfied with the results of the assessment process may notify the recruiter of their concerns in writing or by e-mail within three (3) business days from the date of the notice.

Section 3-40 Referral (Revised November 18, 2015; Rule Revision Memo 15D)

Appointing authorities can only fill vacant Career Service positions with eligible candidates whose names appear on lists referred to the appointing authority by the OHR as described in this section of this Rule 3, or who fall within one of the following exceptions:

- A. Career Service employees who are eligible for re-promotion, transfer, or demotion appointments, or former employees who are eligible for re-employment, as defined in Rule 5 **APPOINTMENTS AND STATUS**.
- B. City employees who are eligible for an ADA re-assignment under Rule 12 **LEAVE FOR EXTENDED ILLNESSES OR INJURIES**. (Revised May 9, 2016; Rule Revision Memo 19D)
- C. Paid trainees and paid interns who have successfully completed the training or internship as provided in Rule 5 **APPOINTMENTS AND STATUS** may be promoted into the position the trainee or intern was being trained to perform.

RULE 5
APPOINTMENTS AND STATUS
(Revised May 9, 2016; Rule Revision Memo 19D)

Purpose statement:

The purpose of this rule is to identify:

- A. Types of appointments (the process of moving employees into vacant positions) and the process of making appointments;
- B. Types of positions and employee status;
- C. Medical groups and standards following a conditional offer of employment;
- D. Dual incumbency and dual employment; and
- E. Compliance with the Immigration Reform and Control Act of 1986.

(Revised May 9, 2016; Rule Revision Memo 19D)

Section 5-10 Appointments

- A. The Career Service shall comprise all employees of the City and their positions, subject to the exceptions in the City Charter.
- B. Appointing authorities, including the Office of Human Resources (“OHR”) Executive Director, may delegate any authority provided under this Rule 5 to a subordinate employee.

5-11 Appointments of Applicants Who Are Not in the Career Service

- A. Employment appointment: An appointment made as a result of referral of an employment list in accordance with Rule 3 **RECRUITMENT**.
- B. Re-instatement appointment: An appointment of a former employee who had been laid off or who resigned in lieu of a lay-off, which is made as a result of referral from a re-instatement list in accordance with Rule 3 **RECRUITMENT**.

Section 5-60 Dual Employment

The following rules shall apply as to dual employment in the Career Service:

- A. Since a position is by definition an aggregate of duties to be performed by one (1) person, an employee may occupy only one (1) full-time position.
- B. An employee may occupy more than one (1) part-time position, more than one (1) on-call position, or a combination of part-time and on-call positions provided that the total time worked does not exceed the equivalent of a full-time position.

Section 5-70 Compliance with the Immigration Reform and Control Act of 1986

5-71 Policy

The policy of the Board is to conform to the provisions of Federal and Colorado immigration law, including but not limited to the Immigration Reform and Control Act of 1986, the Immigration Act of 1990, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and regulations based upon these laws.

5-72 New Hires

No person hired on or after May 21, 1987 shall be employed for more than three (3) working days unless such employee has submitted to the OHR the documentary evidence of identity and authorization to work required by Federal immigration law.

5-73 Penalty

In accordance with the requirements of Federal immigration law, any employee failing to comply with this section of Rule 5 **APPOINTMENTS AND STATUS** shall be terminated immediately.

**RULE 10
PAID LEAVE**

(Revised May 9, 2016; Rule Revision Memo 19D)

Purpose statement:

The purpose of this rule is to provide guidelines and policies for administering the City's paid leave programs. For rules regarding leave for extended illnesses or injuries see Rule 12 **LEAVE FOR EXTENDED ILLNESSES OR INJURIES.**

Section 10-10 General

10-11 Definitions

- A. Leave: Any absence during regularly scheduled work hours. The following types of paid leave are covered in this rule:
1. Paid time off ("PTO");
 2. Sick and vacation;
 3. Bereavement
 4. Holiday;
 5. Compensatory;
 6. Administrative;
 7. Military;
 8. Election;
 9. Court;
 10. Investigatory;
 11. Training;
 12. Occasional time off.
- B. Domestic Partner: An unmarried adult, unrelated by blood (closer than would prohibit marriage in Colorado pursuant to the Colorado Revised Statutes); with whom an unmarried employee has an exclusive committed relationship, maintains a mutual residence and shares basic living expenses.

- C. Immediate family: Spouse, child, parent, grandparent, grandchild, sibling, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, domestic partner, and the parent, child, or sibling of the domestic partner, as well as minor children for whom the employee or the employee's domestic partner provide day-to-day care and financial support.

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

10-22 PTO Allowance

- A. The amount of PTO earned by eligible full-time employees shall be calculated as follows:

	Years of consecutive service				
	0 < 0.5	0.5 < 5	5 < 10	10 < 15	> 15
PTO hours earned per month	10	12	15	18	19

- B. A proportionate amount shall be allowed eligible employees working part-time.

Source: D.R.M.C. §18-125

10-23 Partial Leave Accruals

Full-time employees, eligible to earn PTO:

- A. Who begin employment with the City after the first day of a month; or
- B. Whose leave accruals stopped because of an extended absence from work and return to work after the first day of a month; or
- C. Who separate from employment with the City before the last day of a month

Shall earn PTO in that particular month according to the following pro-ration schedule:

Hrs. worked (including pd. lv) in the month	Years of service				
	≤ 0.5	0.5 < 5	5 < 10	10 < 15	≥ 15
0-39	0	0	0	0	0
40-79	2.5	3	3.75	4.5	4.75
80-119	5	6	7.5	9	9.5
120-139	7.5	9	11.25	13.5	14.25
>140	10	12	15	18	19

PTO hours earned

10-24 Situations Where Approval of PTO Use is not Required

- A. An employee may use PTO without requesting the approval of the employee's appointing authority when the employee is incapacitated by sickness or injury; for necessary care and attendance during sickness of a member of the employee's immediate family, and for qualifying conditions under the Family and Medical Leave Act ("FMLA"). Such use shall be subject to reporting and investigation requirements set forth in this Rule 10.

- 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 his or her PTO bank. PTO may not be accumulated in the PTO bank in excess of four hundred (400) hours.

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 his or her regular rate of pay for the unused portion of his or her accumulated PTO bank and special bank if applicable.

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

10-32 Sick and Vacation Leave Allowance

- A. Eligible full-time employees shall accrue eight (8) hours of sick leave every month.
- B. The amount of vacation leave earned by eligible full-time employees shall be calculated as follows:

Years of consecutive service				
	0 < 5	5 < 10	10 < 15	>15
Vacation hrs. earned per month	8	10	12	14

- C. Employees working part-time shall accrue a proportionate amount.

Source: D.R.M.C. §18-132

10-33 Partial Leave Accruals

Full-time employees, eligible to earn sick and vacation leave:

- A. Who begin employment with the City after the first day of a month; or
- B. Whose leave accruals stopped because of an extended absence from work and return to work after the first day of a month; or
- C. Who separate from employment with the City before the last day of a month

Shall earn sick and vacation leave in that particular month according to the following pro-ration schedule:

Hrs. worked (including pd. lv) in the month earned	Vacation hours earned				Sick hrs.
	Years of service				
	0 < 5	5 < 10	10 < 15	>15	N/A
0-39	0	0	0	0	0
40-79	2	2.5	3	3.5	2
80-119	4	5	6	7	4
120-139	6	7.5	9	10.5	6
≥140	8	10	12	14	8

10-34 Using Sick and Vacation Leave

A. Sick leave:

1. Sick leave may be used when an employee is incapacitated by sickness or injury; for medical examinations, or treatment; for necessary care and attendance during sickness, or for death, of a member of the employee's immediate family, for qualifying conditions under the FMLA and as otherwise provided in these rules.
2. 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.

B. Vacation leave:

Vacation leave shall be taken at a time convenient to the department or agency. The department or agency will confer with employees and recognize their wishes where possible. Preference in the scheduling of vacation time 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.

Source: D.R.M.C. §18-132(b)(2)

10-35 Limits on Sick and Vacation Leave Accumulation

- A. Sick leave may be accumulated to a limit of nine hundred sixty (960) working hours. When the accumulation exceeds eight hundred eighty (880) working hours, an employee may request that accumulated sick leave in excess of the eight hundred eighty (880) working hours be converted to vacation leave. Such conversions are in addition to the monthly amount of vacation leave allowed by this section. Employees may not convert sick leave to vacation leave if such a conversion would result in the employee's accumulated vacation leave exceeding the limits allowed by this Rule 10.

Source: D.R.M.C. §18-132(a)(2)

- 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 his or her 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.

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 his or her scheduled shift(s).
- 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 his or her own illness or that of a member of his or her 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, he or she should contact human resources.

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 his or her accumulated compensatory time, sick leave and vacation leave or PTO, 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 FMLA leave;
 - iii. Be receiving ADA leave; or
 - iv. Have received written notice of a contemplation of disqualification meeting. The employee may use donated leave until disqualification occurs or until the end of the period in which a decision on disqualification must be issued, whichever occurs first.
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.

5. Employees who are eligible to receive donated leave may receive either donated PTO or donated sick leave regardless of whether the employee is enrolled in the PTO or sick and vacation leave plan.
- F. Employees cannot use more than six hundred (600) hours of donated leave in a calendar year. Employees cannot receive donated leave to the extent that the donated leave will increase the employee's PTO or sick leave bank over the applicable maximum accumulation limit.
- G.
 1. The amount of donated leave to be credited to the recipient's account shall be computed as follows:
 - a. Multiply the number of hours of leave being donated by the hourly rate of pay of the donor employee;
 - b. Divide the result by the hourly rate of pay of the recipient; and
 - c. Round the result down to the closest full hour.
 2. The computations made in paragraph G.1. shall be reported to the Department of Finance in accordance with procedures to be established by that office.
- H. Recipients of donated leave are not entitled to receive pay upon separation for unused donated leave. Unused donated leave may not be donated to another employee or returned to the donor.

10-46 Effect of Separation on Leave Accrual

Employees shall not earn PTO or sick and vacation leave after the employee's last day as a City employee. Rule 14 **SEPARATION OTHER THAN DISMISSAL** and Rule 16 **CODE OF CONDUCT AND DISCIPLINE** provide this date for dismissals and other types of separations.

10-47 Re-instated Employees

Employees who were laid off while receiving paid sick and vacation leave benefits, and are re-instated under the Career Service Rules after December 31, 2009, will be enrolled in the PTO plan unless they elect in writing to continue in the paid sick and vacation plan. Such election must be made within thirty (30) days of the effective date of their re-instatement.

Source: D.R.M.C. §18-123 (c)

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 he or she 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 he or she 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 his or her name is on a re-instatement list shall also be entitled to restoration of eligible sick leave under the terms of this subsection.

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.

Section 10-60 Paid Holiday Leave

10-61 Eligibility

- A. All eligible Career Service employees shall receive paid holiday leave benefits as provided in these rules, with the exception of:
1. Part-time employees who are regularly scheduled to work less than twenty (20) hours per week; and
 2. Employees occupying on-call positions.

Source: D.R.M.C. §18-141

- B. Unless otherwise provided in these rules, an eligible employee must be at work or on an authorized, paid leave on the scheduled workdays immediately preceding and immediately following the day on which the holiday is observed in order to receive paid holiday leave.
- C. Religious or other holidays not observed by the City may be granted in accordance with the rules governing paid and unpaid leave.

10-62 Designation of holidays

"Holidays" for the purposes of this rule shall mean eight (8) hours in the following days:

- A. New Year's Day (January 1);
- B. Martin Luther King Day (third Monday in January);
- C. Washington's Birthday (observed on the third Monday in February);
- D. Cesar Chavez Day (last Monday in March);
- E. Memorial Day (last Monday in May);
- F. Independence Day (July 4);
- G. Labor Day (first Monday in September);
- H. Veterans' Day (November 11);
- I. Thanksgiving Day (fourth Thursday in November);
- J. Christmas Day (December 25);
- K. Personal holiday (one (1) personal holiday on date agreed upon by employee and the city to be used within the calendar year).

Source: D.R.M.C. §18-142

10-63 Observation of Holiday

- A. Subject to the following provisions, all offices, agencies, commissions and departments of the city are hereby authorized and directed to grant to employees, with pay, the previously designated holidays.
1. If any of the holidays shall fall upon a Sunday, then the Monday following shall be considered as the holiday. If any of the holidays shall fall upon a Saturday, then the preceding Friday shall be considered as the holiday.
 2. An employee may be required to work on a holiday in order to maintain essential services to the public.

Source: D.R.M.C. §18-143

- B. When a holiday falls on an employee's regular day off, it shall be observed as follows:
1. If the holiday falls on the first day off, it shall be observed on the preceding workday.
 2. If the holiday falls on the second or third regular day off, it shall be observed on the next workday.
- C. Appointing authorities who require an employee to work on an observed holiday may schedule the employee's paid holiday leave to be taken on another day during that holiday week as long as the employee is provided with adequate notice of this change in advance of the holiday week.

10-64 Amount of Paid Holiday Leave Received

- A. An eligible full-time employee shall receive eight (8) hours of paid holiday leave in a week in which a holiday occurs.
- B. An eligible part-time employee regularly scheduled to work at least twenty (20) hours per week shall receive paid holiday leave as follows:
1. An employee who is regularly scheduled to work from twenty (20) to twenty-nine (29) hours per week shall receive four (4) hours of paid holiday leave.
 2. An employee who is regularly scheduled to work from thirty (30) to thirty-nine (39) hours per week shall receive six (6) hours of paid holiday leave.

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 his or her 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.

- 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.

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

Compensatory time earned under the provisions of Rule 9 **PAY ADMINISTRATION** may be 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.

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.

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

- 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 his or her employment; or
 - 4. Requested to serve as a witness in a court of law or administrative proceeding by his or her 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 his or her 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.

RULE 11
UNPAID LEAVE
(Revised May 9, 2016; Rule Revision Memo 19D)

Purpose statement:

The purpose of this rule is to provide guidelines and policies for administering unpaid leave. For rules regarding extended illness or injury leave please see Rule 12 **LEAVE FOR EXTENDED ILLNESSES OR INJURIES**.

Section 11-10 Leave Defined

Leave: Any absence during regularly scheduled work hours. The following types of unpaid leave are covered in this rule:

- A. Authorized;
- B. Unauthorized;
- C. Leave for victims of violence;
- D. Budget-required furlough;
- E. Military (unpaid).

Section 11-15 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.

Section 11-20 General Provisions

11-21 Authorized Unpaid Leave

Appointing authorities may permit the use of unpaid leave by employees who either do not have paid leave available or who have requested permission to use unpaid leave when it is in the interest of the City to do so.

11-22 Unauthorized Unpaid Leave

- A. Absences from work shall be treated as unauthorized, unpaid leave:
 - 1. When an employee has not requested permission to use a type of leave for which permission is required; or
 - 2. When a leave request has been denied; or
 - 3. When an employee has not complied with reporting procedures; or
 - 4. Which are not otherwise authorized under these rules.
- B. Employees on unauthorized, unpaid leave may be subject to discipline, up to and including dismissal.

11-23 Exempt and Non-exempt Employees

- A. An exempt employee on unpaid leave shall have his or her pay reduced on an hourly basis for the duration of the absence when the absence is less than a day and is due to sickness or personal reasons, and:
 - 1. The employee did not request leave; or
 - 2. A request for leave was denied; or
 - 3. The employee has no available leave; or
 - 4. The employee requested, and was granted unpaid leave.
- B. Non-exempt employees on unpaid leave shall receive no pay for the duration of the absence.

11-24 Maintenance of Benefits During Extended Absences

This section applies to the maintenance of benefits during extended absences except as otherwise provided in these rules.

A. First Thirty Days of Unpaid Leave:

The first thirty (30) consecutive calendar days of authorized, voluntary unpaid leave in a calendar year, shall have no effect on the following:

- 1. City contributions to health, dental, and life insurance; or
- 2. Accrual of paid time off (PTO), sick and vacation leave, and holiday eligibility.

B. After Thirty Days but Before One Hundred and Eighty-one Days:

After the first thirty (30) consecutive calendar days of authorized, voluntary unpaid leave in a calendar year:

1. City contributions to health, dental, and life insurance shall be discontinued, except for employees on Family and Medical Leave Act ("FMLA") leave; and
2. Employees will no longer be able to earn PTO, sick and vacation leave, or paid holidays.

C. After One Hundred and Eighty Days:

After the first one hundred and eighty (180) consecutive calendar days of authorized, voluntary unpaid leave, City contributions to health, dental, and life insurance shall be discontinued for all employees.

- D. 1. An employee may pay the cost of continuing his or her health, dental, and life insurance, as well as any supplemental insurance coverage(s), such as vision and supplemental life insurance, during extended absences from work by:
 - a. Depositing the amount due with the OHR every month; or
 - b. Taking at least one day of paid leave from which the amount due shall be deducted.
2. An employee's failure to pay the cost of continuing insurance coverage shall result in the discontinuance of such insurance.

11-25 Other Provisions Regarding Extended Unpaid Leave

- A. A period of unpaid leave shall not constitute a break in service.
- B. A period of unpaid leave lasting longer than one hundred and eighty (180) consecutive calendar days and occurring during an employee's probationary period shall not be counted as part of that period. The employee to whom such leave has been granted will resume his or her probationary period upon returning from the period of unpaid leave.
- C. At the expiration of a period of unpaid leave, the employee shall return to the position and classification he or she held before going on leave. Failure to report promptly at the expiration of a period of unpaid leave shall be considered to be a resignation.

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

If the Mayor of the City and County of Denver decides or allows appointing authorities to furlough employees due to budgetary reasons, the following Career Service Rule applies:

- 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.
- B. Furloughs of overtime exempt employees may be taken in work day or workweek increments. During the workweek in which an overtime exempt employee takes one or more furlough days, the furlough hours taken and the hours worked plus any leave taken by the exempt employee should not total more than forty (40) hours. A work day is eight (8) hours for the purposes of this rule.
- C. Furloughs of non-exempt employees need not be taken in work day or work week increments but cannot be taken in less than two (2) hour increments.
- D. The Mayor may exempt certain employees from a mandatory furlough 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. Maintenance of benefits:

An employee on a furlough is entitled to;

- a. Have the City continue paying its share of the employee's health, dental, and life insurance premiums.
- b. Earn PTO, or sick and vacation leave, and
- c. Receive paid holiday leave for holidays observed during a furlough. During the first thirty consecutive calendar days of a furlough, furlough days will be treated as days worked for the purposes of determining whether the employee worked on the scheduled work days immediately preceding and immediately following the day on which the holiday is observed,

G. Nothing herein precludes the Mayor from designating specific furlough days or otherwise determining how to implement mandatory 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 seventy nine (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:

A probationary employee who is on unpaid military leave for thirty (30) days or longer shall be considered to have attained career status if the employee returns to work after the employee's end of probation date.

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 12
LEAVE FOR EXTENDED ILLNESSES OR INJURIES
(Revised May 9, 2016; Rule Revision Memo 19D)

Purpose statement:

The purpose of this rule is to provide guidelines and policies for administering extended time off caused by illness or injury.

Section 12-10 Types of Leave Covered by this Rule

- A. Family and Medical Leave Act (“FMLA”) leave;
- B. Salary continuation leave and Workers’ Compensation leave;
- C. American with Disabilities Act (“ADA”) leave in connection with the ADA Interactive Process.

Section 12-15 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.

Section 12-20 FMLA Policy

It is the policy of the Career Service Board to provide leave under the FMLA to eligible employees. The purpose of FMLA leave is to provide up to twelve weeks of job-protected leave in a twelve-month period to eligible employees for specified immediate family and medical reasons. This rule is intended to comply with and be interpreted consistent with the FMLA and its corresponding regulations. To the extent an issue is not addressed herein, or if there is a conflict with a Career Service Rule, the FMLA and its corresponding regulations shall govern.

12-21 When Leave under the FMLA May be Used

FMLA leave shall only be available:

- A. For the birth and care of a newborn child of the employee (including a newborn child born into a domestic partnership);
- B. For placement with the employee or the employee's domestic partner (as defined in Rule 10 **PAID LEAVE**) of a child for adoption, foster care or legal guardianship;
- C. To care for an employee's parent, spouse or domestic partner, or child with a serious health condition;
- D. To take leave when the employee is unable to perform the functions of the employee's job because of a "serious health condition" as defined in the FMLA and its corresponding regulations; or
- E. For any other reason authorized by the FMLA.

12-22 Eligibility for FMLA leave

An employee may be eligible for FMLA leave if the employee has:

- A. Been employed by the City for at least twelve (12) months in the last seven (7) years; and
- B. Worked at least twelve hundred and fifty (1,250) hours in the twelve (12) months immediately preceding the beginning of the FMLA leave.

12-23 Requesting FMLA leave

- A. An employee may expressly request FMLA leave, or may merely state that he or she needs leave for a reason which the appointing authority knows is a qualifying reason for FMLA leave. In either instance, the appointing authority shall notify the employee that the leave may qualify as FMLA leave and request and provide information in accordance with this rule.
- B. In any situation where the need for FMLA leave is foreseeable, an employee shall provide thirty (30) days notice or such notice as is practicable.
- C. In any situation where the need for FMLA leave is not foreseeable, the employee shall provide such notice as is practicable. Such notice may be provided by the employee or the employee's spokesperson if the employee is unable to do so personally. The employee or the employee's spokesperson will provide more information as required by the appointing authority when it can be readily accomplished as a practical matter.

- D. An employee requesting FMLA leave must provide to the appointing authority all information necessary to determine if such leave is appropriate, including:
1. The reasons for the leave so as to allow the appointing authority to determine if the conditions identified in subsection 12-21 of this Rule have been met.
 2. The anticipated start of the leave.
 3. The anticipated duration of the leave.
 4. Whether or not the employee has a spouse or domestic partner who is also an employee of the City and County of Denver.
 5. A health care provider certification on a form provided by the appointing authority consistent with the FMLA.

Information provided to the appointing authority regarding an employee's FMLA leave shall be maintained in a confidential file separate from the employee's personnel file.

- E. A request for FMLA leave which does not satisfy the conditions identified in subsection 12-21 of this Rule may be denied or delayed.
- F. A denial of a request for FMLA leave shall not preclude granting PTO or sick leave if the conditions identified in these rules are met.

12-24 Use of FMLA leave

- A. No more than twelve (12) workweeks of FMLA leave may be used in any twelve (12) month period. The twelve (12) month period shall begin when FMLA leave was first used by an employee.
- B. FMLA leave shall be granted consecutively, intermittently or on a reduced leave schedule, as provided for under the FMLA. Provided, however, if an employee requests FMLA leave intermittently or on a reduced leave schedule after the birth or placement of a child for adoption, foster care or legal guardianship, such leave shall be granted only if it is consistent with the reasonable operational necessity of the agency, as determined by the appointing authority.
- C. It is the appointing authority's responsibility to designate qualifying leave as FMLA leave and the appointing authority shall notify the employee of such designation and provide other required information about FMLA leave. An employee cannot refuse to allow the appointing authority to designate qualifying leave as FMLA leave.

- D. FMLA leave is unpaid leave, unless an employee elects to substitute available paid leave for unpaid FMLA leave, subject to the limitations in this Rule 12 on the use of paid leave while on salary continuation leave or Workers' Compensation leave.
- E. In the case where both spouses or domestic partners are employees, the amount of FMLA leave available shall be determined as follows:
 - 1. When the leave is because of birth, adoption, foster care or legal guardianship of a child, the FMLA leave available for bonding shall be the combined total of twelve (12) weeks of FMLA leave during any twelve (12) month period as defined in the FMLA and its corresponding regulations.
 - 2. When the leave is because of the "serious health condition" of a parent, the FMLA leave available shall be the combined total of twelve (12) weeks during any twelve (12) month period as defined in the FMLA and its corresponding regulations.
 - 3. When the leave is because of a serious health condition of either or both employees or a child, twelve (12) weeks of FMLA leave may be used by each employee in any twelve (12) month period.

12-25 Secondary employment during FMLA Leave

Appointing authorities may deny secondary employment during FMLA leave.

12-26 Investigation of Use of FMLA Leave

Appointing authorities may investigate the use of FMLA leave consistent with the FMLA and its corresponding regulations, including by requiring a second opinion and third opinion, if appropriate, and by considering information that is inconsistent with an employee's FMLA request. Misuse of FMLA leave may be cause for disciplinary action up to and including dismissal. An appointing authority may not discipline an employee for appropriate use of FMLA leave.

12-27 Re-assignment

If an employee needs intermittent leave or leave on an established reduced leave schedule that is foreseeable based on the planned medical treatment for the employee or the employee's parent, spouse, domestic partner, or child, or if the appointing authority agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption, foster care or legal guardianship, the appointing authority may require the employee to transfer temporarily, during the period the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and for which the modified schedule is less disruptive to the business and/or operational needs of the department or agency than the employee's regular schedule.

12-28 Maintenance of Benefits

- A. During any FMLA leave, the City must maintain the employee's health insurance coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously working during the entire leave period.
- B. It shall be the responsibility of an employee on unpaid FMLA leave to provide that share of payment(s) necessary to maintain health insurance coverage.

12-29 Return from FMLA Leave

- A. An employee returning from FMLA leave due to his or her own serious health condition shall provide a certification from the employee's health care provider that the employee is able to resume work. An employee further may be required to report periodically on the employee's status and intent to return to work.
- B. An employee returning from FMLA leave shall be returned to the same position the employee held when leave began or to an equivalent position which is defined by the FMLA regulations as a position that is virtually identical to the employee's former position in terms of pay, benefits and working conditions.
- C. An employee need not be re-instated if the employee would not otherwise have been employed at the time re-instatement is requested.
- D. If the employee is unable to return to work at the conclusion of FMLA leave, the appointing authority shall initiate the interactive process as provided in this Rule 12, within twenty (20) days of the expiration of the employee's FMLA leave, unless the employee is also on salary continuation leave or Workers' Compensation leave.

Section 12-30 Salary Continuation Leave and Workers' Compensation Leave

12-31 Definitions (for the purposes of this Section 12-30)

- A. Disability: The physical inability of an eligible employee to perform the duties of his or her position, or any other position with the City.
- B. Eligible employee: Any Career Service employee except:
 - 1. Employees occupying on-call positions; and
 - 2. 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).

12-32 Salary Continuation Leave

- A.
 - 1. The City provides paid disability leave (hereinafter “salary continuation leave”) at the rate of eighty percent (80%) of an employee’s gross salary for up to ninety (90) consecutive calendar days from the date of injury.
 - 2. An eligible employee is entitled to salary continuation leave if the employee has a disability as a result of an occupational injury or occupational disease arising out of and in the course and scope of employment with the City.
- B. An employee receiving salary continuation leave shall not be permitted to use other available paid leave.
- C. Salary continuation leave will end on the employee’s last day as a City employee or if the employee is no longer eligible for temporary benefits under the Workers’ Compensation Act of Colorado, as amended, Title 8, Articles 40-47, C.R.S. (“the Act”).

12-33 Workers’ Compensation Leave

- A. An employee who remains unable to return to work in his or her job without accommodation, or to modified duty after salary continuation leave has been exhausted, and is receiving temporary disability benefits under the provisions of the Act, will be permitted to use Workers’ Compensation leave for absences from work resulting from the employee’s occupational injury or occupational disease arising out of and ~~with~~ within the course and scope of employment with the City, until it is determined that the employee is no longer eligible to receive temporary disability benefits pursuant to the Act.
- B. Workers’ Compensation leave is unpaid leave, except to the extent an employee elects to use available paid leave. An employee may use any available paid leave to make up the difference between eighty percent (80%) of the employee’s gross salary and the temporary disability benefits paid under the provisions of the Act.

12-34 Applicability of the FMLA

- A. The department or agency shall designate an employee’s salary continuation leave and/or Workers’ Compensation leave as FMLA leave if the requirements of the applicable Career Service and Federal statutes and regulations are met.
- B. If an employee’s salary continuation leave and/or Workers’ Compensation leave is also designated as FMLA leave, the salary continuation leave and/or Workers’ Compensation leave shall run concurrently with the FMLA leave.

12-35 Maintenance of Benefits

An employee who is absent from work on salary continuation leave or Workers' Compensation leave is:

- A. Eligible to have the City continue paying its share of the employee's health, dental, and life insurance premiums during the period of salary continuation and/or Workers' Compensation leave, so long as the employee continues to pay his or her share of the insurance premiums.
- B. Eligible to earn paid leave as provided in these rules;

12-36 Termination of Workers' Compensation Leave Eligibility

- A. Employees who are no longer eligible for temporary benefits under the Act are not eligible to continue receiving Workers' Compensation leave.
- B. If the employee's permanent restrictions prohibit the employee from returning to work full-time and/or full-duty after having reached Maximum Medical Improvement ("MMI"), the City shall initiate the interactive process as provided in this Rule 12, within twenty (20) days of the expiration of the employee's eligibility for salary continuation leave or Workers' Compensation leave, unless the employee is also on FMLA leave.
- C. Employees who are still receiving temporary benefits under the Act may lose their eligibility for Workers' Compensation leave before reaching MMI if it is determined that they will be unable to return to work in any capacity. Such determination shall be made by the ADA Coordinator, after consulting with representatives from the City Attorney's Office and the City's Workers' Compensation Unit. Once this determination is made, the City shall initiate the interactive process as provided in this Rule 12, within twenty (20) days of the expiration of the employee's eligibility for salary continuation leave or Workers' Compensation leave, unless the employee is also on FMLA leave.

Section 12-40 The ADA Interactive Process

12-41 Policy

- A. It is the policy of the City to provide equal employment opportunity to qualified individuals with disabilities. This rule is intended to comply with and be interpreted consistently with the Americans with Disabilities Act of 1990 ("ADA"), as amended. In case of a conflict between this rule and the ADA (and its corresponding regulations), the ADA will control. Additional information about the ADA may be found on the Equal Employment Opportunity Commission's website, www.eeoc.gov.
- B. No appointing authority, official, supervisor or employee shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, or any terms, conditions, or privileges of employment.

12-42 ADA Definitions

- A. ADA Coordinator: Person or persons designated by the OHR Executive Director to act on behalf of the OHR in the Interactive Process (IAP).
- B. Vacant position: An empty position that a department or agency is authorized to fill and intends to fill.

12-43 Interactive Process (IAP)

A department or agency shall provide a reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless it can be demonstrated that the accommodation would impose an undue hardship on the operation of the department or agency, or pose a direct threat to any person. These determinations with regard to employees shall be made through the IAP. The process for accommodating applicants can be found in Rule 3 **RECRUITMENT**.

- A. The City shall initiate an IAP when:
 - 1. An employee provides notice that the employee needs a reasonable accommodation to perform the essential functions of the employee's position; or
 - 2. The employee's department or agency has actual or constructive notice that an employee may have a disability for which the employee needs reasonable accommodation.
- B. The IAP shall be a flexible, informal process that involves the department or agency, the employee and the ADA Coordinator, and requires the good faith participation of all parties. The ADA Coordinator may terminate the IAP if the employee fails to cooperate in the process.
- C. The purpose of the IAP shall be to determine if:
 - 1. The employee has a disability within the meaning of the ADA;
 - 2. If so, whether the employee needs a reasonable accommodation to perform the essential duties of his or her job, or another job; and
 - 3. If so, whether the employee can be reasonably accommodated.
- D. In order to make this determination, the ADA Coordinator may request and review medical records and other documentation in the possession, custody, or control of the employee's health care providers. The ADA Coordinator may also obtain an independent medical evaluation for the purpose of gathering information needed to make this determination. Such examinations and evaluations shall be reasonable and paid for by the department or agency where the employee is presently employed.

- E. If the employee is determined to have a disability as defined in the ADA, the ADA Coordinator, department or agency, and the employee shall endeavor to identify any reasonable accommodations the employee may need to be able to perform the essential functions of his or her position. The preferred option always shall be a reasonable accommodation that allows the employee to remain in his or her existing job.
- F. If the employee is determined not to have a disability as defined in the ADA, or it is determined that the employee cannot be reasonably accommodated, the ADA Coordinator will end the IAP and disqualification proceedings may be initiated by the employee's department or agency if the employee remains unable to perform the essential functions of his or her position.

12-44 Re-assignment:

- A.
 - 1. If the ADA Coordinator determines that an employee with a disability cannot be reasonably accommodated in his or her current position; the employee expresses an interest in remaining employed with the City; and the employee's restrictions allow the employee to be reasonably accommodated in other positions, the ADA Coordinator shall explore re-assignment to a vacant position as a possible reasonable accommodation.
 - 2. This determination shall be communicated in writing to the employee as soon as possible after it has been made.
 - 3. The ADA Coordinator shall look for positions that are vacant and become vacant during the three (3) months immediately following this written communication.
 - 4. The ADA Coordinator shall terminate the IAP before the end of the three-month period if the employee withdraws his or her request for re-assignment, or if the employee accepts an IAP re-assignment.
- B. Re-assignment is not available:
 - 1. To a position that constitutes a promotion. If the employee originally took a demotion as an ADA re-assignment, the ADA Coordinator may consider positions above the employee's current pay grade if the employee is eligible for re-promotion (as defined in Rule 5 **APPOINTMENTS AND STATUS**) to that position and is able to perform the essential functions of that position with or without accommodations. This does not preclude an employee from applying for promotions within the Career Service;
 - 2. To job applicants who are not currently City employees.

- C.
 - 1. The ADA Coordinator's priority is to identify vacant positions that are equivalent to the employee's current position in terms of pay and benefits, first in the employee's department or agency, and then in other departments or agencies.
 - 2. If no equivalent positions exist, the ADA Coordinator's next priority is to identify vacant positions of lower pay and benefits, first in the employee's department or agency, and then in other departments or agencies.
 - 3. If no vacant positions become available during the three-month re-assignment period, the ADA Coordinator shall terminate the IAP and disqualification proceedings may be initiated by the employee's department or agency.
- D.
 - 1. The ADA Coordinator shall analyze the employee's specific experience, skills and background, and the specific job duties of the vacant position. The employee does not need to be the best-qualified individual for the position in order to be re-assigned to it.
 - 2. The ADA Coordinator shall provide the employee with information about all vacancies for which the employee:
 - a. Meets the minimum education, experience and licensing or certification requirements; and
 - b. Is able to perform the essential functions with or without accommodations.
 - 3. The employee may express his or her preference regarding the selection of a re-assignment position. However, the ADA Coordinator is free to choose the re-assignment position to be offered to the employee.
- E. An employee with a disability may decline a re-assignment appointment that is a demotion and request that the ADA Coordinator continue looking for vacant positions within the three-month time period. However, if an employee declines an offer of a transfer to a comparable position in terms of salary and benefits, the ADA Coordinator shall terminate the IAP and disqualification proceedings may be initiated by the employee's department or agency.
- F. A department or agency to which an employee with a disability is being re-assigned is required to cooperate with the re-assignment process coordinated by the ADA Coordinator and accept the re-assignment of that employee through the IAP. However, the department or agency may file a request to the OHR Executive Director to review the re-assignment placement within five (5) calendar days of the re-assignment notice if the department or agency reasonably believes that the employee will not be able to perform the essential functions of the position with or without reasonable accommodation.

- G. If an employee is re-assigned to either an equivalent or demotion position, the employee shall continue to receive the pay rate he or she earned in the former position unless this exceeds the range maximum of the pay range of the new classification, in which case the employee shall receive the range maximum of the pay range of the new classification.
- H.
 - 1. The department or agency shall take all necessary steps to train the re-assigned employee in the duties of the position re-assigned, as it would do with any new employee.
 - 2. Re-assigned employees shall be provided any reasonable accommodation necessary for the employees to perform the essential functions of the new position.
- I.
 - 1. If an employee with a disability is re-assigned to a vacant position and the department or agency subsequently determines that the employee with a disability is unable to perform the essential functions of the position, with or without reasonable accommodation, the IAP will be resumed from the beginning.
 - 2. The IAP need not be resumed if the employee has performance problems in the position that are unrelated to his or her disability, or if the employee is dismissed as a corrective measure for misconduct.

12-45 Re-assignment of Classified Service Employees

- A. A Classified Service employee (police officer or fire fighter) with a disability is eligible to seek re-assignment to a vacant Career Service position as a form of reasonable accommodation if he or she cannot be reasonably accommodated in his or her Classified Service position. Should a Classified Service employee with a disability be re-assigned to a vacant Career Service position as a form of reasonable accommodation, the employee will no longer be a Classified Service employee, but instead will be a new Career Service employee.
- B. Under this circumstance, the employee will be entitled to the pension given to Career Service employees after the appropriate number of years of service for vesting within the Career Service system. The employee is not entitled to retroactive vesting for this pension for his or her years of service as a Classified Service employee. This rule does not prohibit the employee from purchasing service credits subject to procedures established by the Denver Employees Retirement Plan.
- C. The employee's sick and vacation days that he or she accrued as a Classified Service employee will not be carried over to the new Career Service position; however, the employee will be given monetary payment for such leave upon separating from the Classified Service, in accordance with the Police or Fire Department's rules and regulations and collective bargaining agreement then in effect. The employee shall accrue paid time off as a new Career Service employee.

12-46 ADA Leave

- A. ADA leave shall be provided:
 - 1. During the IAP if an employee is unable to perform the essential functions of his or her existing job;
 - 2. During any period of leave that is provided to the employee as a reasonable accommodation as a result of the IAP.
- B. ADA leave is unpaid leave, unless an employee elects to substitute available paid leave for unpaid ADA leave.

12-47 Retaliation and Coercion

- A. It is a violation of this rule to discriminate against any individual because that individual has opposed any act or practice prohibited by this rule or because that individual filed a grievance or appeal, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing to enforce any provision contained in this rule.
- B. It is a violation of this rule to coerce, intimidate, threaten, harass or interfere with any individual in the exercise or enjoyment of, or because that individual aided or encouraged any other individual in the exercise of, any right granted or protected by this rule (including, but not limited to, making a request for a reasonable accommodation).

12-48 Confidentiality and Record Keeping

Any medical information obtained about an employee during the IAP shall be collected and maintained on separate forms and in separate files and be treated as confidential, except that:

- A. Supervisors, managers, human resources personnel and other City employees involved in the IAP may obtain access to such information on a need to know basis.
- B. Supervisors, managers, human resources personnel and other appropriate City employees may be informed regarding necessary restrictions on the work or duties of an employee and necessary accommodations.
- C. First-aid and safety personnel may be informed if the disability requires emergency treatment.
- D. Information may be given to the state workers' compensation offices, and state second injury funds, in accordance with the state workers' compensation laws.

- B. Additional length of service credits from military service: Pursuant to the Colorado Constitution, Article XII, Section 15 (See Appendix), military service shall be added to the length of service for lay-off purposes under the following conditions (Effective May 4, 2007, Rule Revision Memo 18C):
1. General provision on military service credits eligibility: The amount of military service credited shall be the total number of years, months, and days served in the following situations, other than for training purposes:
 - a. Service in any branch of the armed forces of the United States during any period of any declared war or any undeclared war or other armed hostilities against an armed foreign enemy; or
 - b. Service on active duty in any such branch in any campaign or expedition for which a campaign badge is authorized (Revised March 19, 2004; Rule Revision Memo 247B).
 2. Other provisions regarding military service credits:
 - a. For employees who have completed twenty (20) or more years of active military service, no military service shall be counted in determining length of service for lay-off purposes.
 - b. For employees who have completed less than twenty (20) years of active military service, eligible military service credits shall not exceed ten (10) years.
 - c. Employees who received paid or unpaid leave for the purpose of serving on active military duty as defined in paragraph 14-43 B Additional length of service credits from military service shall not be credited with military service time, but shall have this period of military leave included in determining their length of service.
 - d. To be eligible for military service credits, employees must have been separated from such service under honorable conditions (Revised March 19, 2004; Rule Revision Memo 247B).
 - e. Employees whose spouse died while serving or as a result of a service-connected cause are also eligible for military service credits as defined and limited above (Revised March 19, 2004; Rule Revision Memo 247B).
 3. Proof of eligibility for military service credits: Proof of eligibility for military service credits shall be established in accordance with the provisions of Article XII, Section 15 (2) of the Colorado Constitution (Effective May 4, 2007, Rule Revision Memo 18C).