

## SUMMARY AND EXPLANATION OF EMERGENCY REVISIONS TO CAREER SERVICE RULES

On March 26, 2020, the Career Service Board (“the Board”) held an emergency telephonic meeting to consider proposed emergency revisions to Career Service Rules (CSRs) 9-73.B and 16.10.A. The Board has authority under Denver Revised Municipal Code **§ 2-98 Emergency rules** to adopt emergency rules without following its notice and hearing requirements when necessary to immediately protect the public health, safety or welfare. Consistent with the ordinance, these emergency rules may not remain in effect for more than 180 days after they were adopted. As a result, these emergency rule revisions will expire on September 22, 2020, if not replaced beforehand following the normal notice and hearing requirements.

### CSR 9-73.B Revisions

**Summary:** Revised CSR 9-73.B now states that employees may be redeployed to work in other capacities in their own agencies or in other City agencies to support core functions of the City during a City-wide emergency declared by the Mayor.

**Explanation:** Former CSR 9-73.B(1) implied that employees who were excused from work due to a work interruption during a City-wide emergency may be redeployed, as it set forth how those employees were to be paid when redeployed, but the rule did not say so specifically and no other rule addresses this topic. The revised rule now plainly states that City employees may be redeployed in other capacities during a City-wide emergency, eliminating any doubt that redeployment assignments are authorized and enforceable.

**Summary:** The rule also now states that employees who work in redeployment assignments will be paid as follows: non-exempt employees will be paid at their regular rate of pay for actual hours worked in a re-deployment assignment, and be eligible for overtime in accordance with Section 9-90 Overtime; exempt employees eligible for overtime will be paid their regular salary during any workweek in which they are re-deployed, and be eligible for overtime in accordance with 9-93 Overtime Exceptions; and exempt employees will be paid their regular salary during any workweek in which they are re-deployed. In other words, employees who were excused from their regular duties and are redeployed to work in other capacities will no longer be paid both their regular wages due to the work interruption (per CSR 9-73.A) and either their straight time rate or overtime rate (if applicable) for the actual hours they work in a redeployment assignment. However, the revised rule also states that these pay requirements do not prevent the City from authorizing additional pay to some or all employees working in redeployment assignments.

**Explanation:** Former CSR 9-73.B provided that employees excused from their regular duties during a City-wide emergency but required to perform other work due to emergency conditions were entitled to be paid both their regular wages during the work interruption (per CSR 9-73.A), but also at their straight time rate for all actual hours worked. In addition, the rule provided that all interrupted work hours counted as time worked for overtime purposes (along with paid leave, holidays, etc.), which meant that overtime-eligible employees were potentially entitled to be paid two and one-half (2 ½) times their regular wages for all hours actually worked during the City-wide emergency. This generous pay rule was clearly intended to apply in typical City-wide emergencies such as blizzards causing work interruptions for several days and an extensive deployment of snowplow drivers. The rule is simply not reasonable or financially feasible during a massive pandemic causing work interruptions expected to last weeks, if not longer, and

significantly impacting City revenues. Nevertheless, the revised rule leaves open the possibility that the City may authorize additional pay for some or all employees who are redeployed without the need for a rule change.

**Summary:** Revised CSR 9-73.B no longer states that employees redeployed during a City-wide emergency may be paid in cash or compensatory time.

**Explanation:** This provision is no longer applicable because employees will not be receiving additional compensation for hours worked in a redeployment assignment, unless they are entitled to overtime, in which case the overtime rules have a similar provision (specifically CSR 9-91.A Policy).

**Summary:** The rule was also revised to clarify that only employees who were on leave at the time the work interruption occurred are required to use that leave unless called back to work.

**Explanation:** The intent behind this revision was to clarify that only those employees who were on leave at the time of the work interruption are required to use their paid leave, and that it does not employees who were planning to use paid leave during an extensive work interruption and are unable to do so.

**Summary:** The rule no longer requires employees to have prior written approval from their appointing authority or designee in order to telecommute during a City-wide emergency, or to demonstrate that assignments were accomplished in accordance with the written approval.

**Explanation:** This requirement is unnecessary in the current pandemic situation in which employees deemed non-essential are subject to stay in place orders issued by the state and the city, and appointing authorities were directed to allow all non-essential employees to work from home, if feasible.

### **CSR 16-10.A**

**Summary:** This former rule provided that written notices required to be served on an employee under Rule 16 (e.g., letters contemplating or giving notice of discipline or disqualification) had to be served on the employee either in person or by first class U.S. mail, and only allowed for e-mail service if the employee requested service by e-mail in writing. The rule now allows such notices to be served on employees by e-mail, delivery receipt requested, at either their City e-mail address or their personal e-mail address. The rule also states that a delivery receipt is not necessary in order for service to be effective.

**Explanation:** These revisions were necessitated by the COVID-19 pandemic, which has resulted in employees working from home and/or abiding by social distancing requirements at work, and by stay in place orders issued by the state and the city, all of which made it challenging to effectively serve employees with notices in person or by U.S. mail.