

Career Service Rule Section 2-20 B. - Adoption, Amendment or Repeal of Career Service Rules. When the Board or the Personnel Director considers that a change in the Rules is necessary or desirable, the procedure shall be as follows: ... 2) The proposed rule change shall be posted on bulletin boards and made available to appointing authorities, employees, and the general public for comments and suggestions. A short summary of the proposed rule changes shall be posted with the proposed rule change. 4) A public hearing on the proposed rule change shall be held by the Board."

**PLEASE POST ON ALL BULLETIN BOARDS AS SOON
AS POSSIBLE**

Public Hearing Notice - No. 437 (continued)

The Career Service Board Public Hearing regarding a proposed revision to Career Service Rule 14 **SEPARATION OTHER THAN DISMISSAL** and related rules has been continued.

The scheduled time for the public hearing is **THURSDAY, NOVEMBER 3, 2011, at 5:00 P.M.**, in the **CSA Board Room, 4.G.2.**, Webb Municipal Building, 201 West Colfax Avenue.

If anyone wishes to be heard by the Board on this item, please contact Leon Duran at 720-913-5168 no later than 12:00 Noon on **MONDAY, OCTOBER 31, 2011.**

If anyone wishes to submit written comments, please submit them

**IN PERSON NO LATER THAN 12:00 NOON ON
MONDAY, OCTOBER 31, 2011 TO:**

Pete Garritt
HR Supervisor
Career Service Authority
201 West Colfax, 4th Floor
Denver, Colorado 80202

**BY MAIL TO BE RECEIVED NO LATER THAN 12:00 NOON ON
MONDAY, OCTOBER 31, 2011, ADDRESSED TO:**

Pete Garritt
HR Supervisor
Career Service Authority
201 West Colfax, Department 412
Denver, Colorado 80202

**BY FAX, TO BE RECEIVED NO LATER THAN 12:00 NOON ON
MONDAY, OCTOBER 31, 2011 TO: (720-913-5720)**

**OR BY E-MAIL TO BE RECEIVED NO LATER THAN 12:00 NOON ON
OCTOBER 31, 2011, 2010 TO: Peter.Garritt@denvergov.org**

PLEASE POST ON ALL BULLETIN BOARDS

AS SOON AS POSSIBLE

RULE PROPOSAL 416B

TO: Appointing Authorities, Managers, and Employees

FROM: Christopher M.A. Lujan, Interim CSA Director

DATE: October 21, 2011

SUBJECT: Proposed revision of Career Service 14 SEPARATION OTHER THAN DISMISSAL and related rules

THIS PROPOSED REVISION TO THE CAREER SERVICE RULES IS BEING POSTED FOR PUBLIC COMMENT AND A CONTINUATION OF THE OCTOBER 20, 2011 PUBLIC HEARING TO BE HELD ON

NOVEMBER 3, 2011, at 5:00 P.M.

This is a re-posting of a rule change proposal that originally went to the Board for Public Hearing on August 18, 2011, and October 20, 2011. The most notable changes to this proposal since the last public hearing are as follows:

- **The rules currently provide that employees appointed to limited position after January 16, 2004 are not entitled to lay-off protections specified in Rule 14. This language in Rules 5-62 E and 14-25 was changed so that the rules now specify that these employees are not entitled to the rights to transfer, be re-assigned, or demote in lieu of lay-off, or to be re-instated in the event of a lay-off affecting them.**
- **The proposed revision to Rule 14 allowed appointing authorities (including the Career Service Personnel Director) to delegate any authority granted under the rule to a subordinate employee. This language in Rule 14-15 was modified to make it clear that the authority to submit lay-off plans and approve lay-off plans could not be delegated. In the case of CSA lay-offs, the manager responsible for the lay-off unit affected by the lay-off has the authority to submit lay-off plans to the Career Service Personnel Director for approval.**
- **The definition of 'Lay-off groups' in Rule 14-41 E was revised to better describe how they are created.**

- Sections 14-45 C, 14-45 F, and 14-46 C were revised to make it clear that agencies could request special qualifications to protect positions that require special skills from being affected by a lay-off even if the position is held by an employee serving employment probation, or (in the case of actions taken in lieu of lay-off such as transfer, re-assignment, or demotion) the position is vacant or held by a limited employee.

These changes are highlighted below.

The most important change in this proposal has to do with simplifying current rules regarding the effective date of an employee's separation. The rule terminology is being changed from 'last day worked' to 'last day as a City employee' because there are currently many situations when an employee's last day worked is not the same day as the employee's last day as a City employee. The rule proposal defines the 'effective date' of a separation as the day after the employee's last day as a City employee. Each type of separation allowed by the rules will explain notice requirements and when an employee's last day as a City employee occurs. Related to this, the proposal puts the responsibility for approving employee use of leave after an employee gives a resignation notice on the appointing authority.

The rule proposal also contains the following changes:

- Moves definitions from Rule 1 to pertinent sections of Rule 14.
- Adds provisions from Rule 11 regarding an employee's failure to return from unpaid military leave to existing section on job abandonment.
- Adds section covering separations caused by an employee's death.
- Removes outdated language about employees with less than six months of service with the City being unable to use vacation leave (no employees hired after December 31, 2009 receive vacation leave, they receive PTO instead).
- Removes provision that appointments or separations of employees shall not be effective on a holiday.

- **Re-organizes Rule 14 for better flow.**
- **Adds purpose statement to Rule 14**
- **Standardizes terminology; changes 'termination' to 'separation'.**
- **Consolidates the following provisions similar to all separations at beginning of Rule 14;**
 - **Service of written notices;**
 - **Effective date/last day as a City employee;**
 - **Payment for leave at separation;**
 - **Rule 14 separations are without fault.**
- **Adds language specifically allowing appointing authorities to delegate authority under Rule 14 to subordinate employees.**
- **Expands current section concerning separations of employees on employment probation to cover employees who are non-career status, trainees or interns.**
- **Adds section regarding separation of limited employees. Specifies that agencies are allowed to separate limited employees before the end date of their position by following the Rule 14 lay-off procedures.**
- **Clarifies that employees who lose a license required to perform the essential functions of the employee's job must be placed on leave.**
- **Adds language that includes employees on employment probation in lay-off groups.**
- **Removes language requiring vacant positions be abolished before lay-offs can occur. Under CSR 14-46 A, employees who are going to be laid off must be offered the opportunity to transfer or be re-assigned to available vacant positions at the same pay level.**
- **Adds language to clarify that special qualification exception may be applied to any position affected by an appointment in lieu of lay-off, not just positions affected by a demotion in lieu of lay-off.**
- **Simplifies notice requirements for resignations.**

If you would like to schedule a meeting with a member of Career Service Authority to discuss this proposal prior to the Public Hearing, please contact Pete Garritt at 720-913-5671.

DELETIONS ARE INDICATED BY ~~strike through~~ AND ADDITIONS ARE INDICATED BY ***bold, italics, and underline.***

RULE 1 DEFINITIONS

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).~~

Class series:

~~The arrangement in sequence of classes that are alike in 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, Rules 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 reinstatement 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 effective January 1, 2010; Rules Revision Memo 42C)~~

Disqualification:

~~An involuntary no-fault separation of an employee, or action in lieu thereof, based on a legal, physical, mental or emotional impairment or incapacity, occurring or discovered after appointment, which prevents satisfactory performance of the duties and responsibilities of the position. (off. 3/15/79; rules rev. 11ea).~~

Documented performance:

~~A verifiable assessment of an individual's work performance, including PEPR ratings, disciplinary actions, and safety violations. (Eff. 3/19/2004, Rule Rev. 247B)~~

Effective date:

~~The date when a personnel action takes effect.; in the case of separation, the employee's last day of work, exclusive of accrued vacation leave or compensatory time. (Eff. 5/16/56; Rules Rev. 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. (Eff. 9/18/1980, rules rev. 127a; revised 3/19/2004, rule rev. 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. (Eff. 11/01/1970, Rules Rev. 115A; Revised 3/19/2004, Rule Rev. 247B).~~

Length of Service:

~~Total number of years, months and days of continuous service, (for examination purposes) including time an employee is on authorized leave of absence without pay, but exclusive of service in non-career status positions. (Effective December 15, 1988; Rules Revision No. 118B; Revised March 19, 2004, Rule Revision Memo 247B).~~

Resignation:

~~Resignation is the voluntary separation of an employee from the career service. (effective May 16, 1956; rules revision memo 16a).~~

Retirement:

~~The separation of an employee from the career service who is required to retire because of mandatory retirement age or who is eligible to retire under the provisions of the Denver employees' retirement plan. (effective November 1, 1965; rules revision memo 47a).~~

Separation:

~~The termination of employment by reason of probation, disqualification, lay-off, Resignation, retirement, dismissal, or death. (effective September 18, 1980; rules revision memo 127a).~~

5-61 Employees in Employment Probationary Status

An employee in employment probationary status:

- C. Is entitled to accumulate leave in accordance with Rule 10 **PAID LEAVE**, ~~except that such employee shall not be entitled to take vacation leave until completion of probation or completion of six (6) months of continuous service, whichever comes first (Revised effective January 1, 2010; Rules Revision Memo 42C);~~

5-62 Employees in Career Status

An employee in career status:

- E. Is entitled to lay-off protection specified in Rule 14 **SEPARATION OTHER THAN DISMISSAL** except **AS PROVIDED OTHERWISE IN RULE 14** for employees appointed to limited positions after January 16, 2004;

5-62 Employees in Career Status

An employee in career status:

- G. May have ~~continuous service~~ **length of service** credits earned prior to lay-off (**as defined in Rule 14 SEPARATION OTHER THAN DISMISSAL**) restored, if such employee is re-instated or re-employed while still on the re-instatement list (~~Effective December 18, 1980; Rules Revision Memo 01, Series B~~); and

Section 9-5 Definitions

- A. Classification series: The arrangement in sequence of class**ifications** ~~es~~ **where the levels of the duties are different but the types of duties and nature of the work are similar** that are alike in the kind but not in level. For the purposes of a market adjustment within the salary range, a classification series shall include first line supervisors and lead workers.

10-33 Using Sick Leave

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.

SUMMARY OF SICK AND VACATION LEAVE ORDINANCES -continued
4. Granting vacation leave
A. An eligible employee who has served in a City position for less than six (6) months shall not be paid for any accumulated vacation leave. Employees with more than six (6) months of service may use accumulated vacation leave.
Source: D.R.M.C. §18-134 (b)
B. Vacation leave shall be taken at a time convenient to the appointing authority, provided that, every eligible employee shall be granted vacation leave during each twelve (12) month period of employment except where a deferment, not to exceed an additional twelve (12) months, is required for the good of the service.
Source: D.R.M.C. §18-132 (b)(2)
THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.

10-35 Bereavement 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. An appointing authority may grant additional sick leave, or may allow an employee to use other paid or unpaid leave because of unusual circumstances.

SUMMARY OF SICK AND VACATION LEAVE ORDINANCES -continued		
5. Effect of separation on sick and vacation leave balances		
A. Sick leave 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.
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.		
Source: D.R.M.C. §18-134 (a)		
B. Vacation leave An eligible employee who has served in a city position for less than six (6) months shall not be paid for any accumulated vacation leave. Employees with more than six (6) months of service shall be paid at his or her regular rate of pay for the unused portion of his or her accumulated vacation leave upon separation from employment.		
Source: D.R.M.C. §18-134 (b)		
THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.		

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 effective date of the employee's separation. ~~Rule 4 DEFINITIONS, Rule 14 SEPARATION OTHER THAN DISMISSAL and Rule 16 DISCIPLINE AND DISMISSAL~~ define the effective dates of describe this date for dismissals and other types of separations.

~~10-56 Appointment or separation on a holiday~~

~~The appointment or separation of an employee shall not be effective on a holiday unless it is a scheduled workday for the employee.~~

11-82 Granting Voluntary Leave Without Pay

Voluntary leave without pay shall be subject to the following provisions:

A. Return

At the expiration of leave without pay, the employee shall return to the position he or she held prior to the leave. ~~Failure to report promptly at the expiration of a leave without pay shall be considered a resignation.~~

11-83 Budget Required Furlough

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

H. Mandatory furlough or voluntary furlough shall not constitute a break in service. ~~Failure to report promptly back to work after the expiration of a mandatory furlough or voluntary furlough may be grounds for discipline, up to and including dismissal from employment.~~

16-75 Procedure for Dismissal

- A. ~~Dismissal of employees during employment probation:~~ **An employee holding non-career, trainee or intern probationary, or employment probationary status may be dismissed at any time.** During the probationary period following employment or re-employment appointment, dismissal by the appointing authority shall be final. However, Such action may be appealed only on the grounds of alleged discrimination because of race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation, or any other status protected by federal, state or local laws, **or when the employee has alleged a violation of the "Whistleblower Protection" ordinance,** in accordance with Rule 19 **APPEALS**. The employee shall be given written notice of dismissal. (Revised effective January 22, 2010; Rules Revision Memo 44C)
- B. ~~Employees dismissed after employment probation:~~ The appointing authority shall give the **an** employee written notice of dismissal on or before the **employee's last day as a City employee** effective date, unless the dismissal is immediate.

**RULE 14
SEPARATION OTHER THAN DISMISSAL**

Purpose Statement: The purpose of this rule is to define the circumstances and processes by which an employee in the Career Service may be separated from employment other than by dismissal.

~~Section 14-10 Types of Separation Other Than Dismissal
(Eff. 3/15/79; Rules Rev. 110A)~~

- A.** The separation of an employee from the Career Service other than **by** dismissal shall be designated one of the following:
- ~~A~~ **1.** Disqualification;
 - ~~B~~ **2.** ~~Termination during employment probationary status-~~**Separation of non-career status employees, trainees or interns, or employees serving employment probation;**
 - 3.** **End of limited position;**
 - ~~C~~ **4.** Lay-off;
 - ~~D~~ **5.** Resignation;
 - ~~E~~ **6.** Retirement;
 - ~~F~~ **7.** Death;
- B.** **Written notices required under this Rule 14 shall be served either in person with a certificate of hand delivery, or by first class U.S. mail, with a certificate of mailing.**
- C.** The personnel action form shall show the reason for the separation and **the employee's** last day **as a City employee** worked. The effective date **of the separation** shall be the **day after the employee's** last day **as a City employee** ~~on which the employee is on duty.~~
- D.** **Employees who separate from employment with the City shall receive payment for all compensatory time, paid time off, and vacation and sick leave, for which they are eligible according to the provisions of Rule 9 PAY ADMINISTRATION and Rule 10 PAID LEAVE.**
- E.** **A separation of an employee under this Rule 14 is considered to be a separation without fault. An employee who has been separated under this Rule 14 may be considered for re-employment without examination as provided in Rule 3 SELECTION.**

Section 14-15 Designees

Appointing authorities, including the Career Service Personnel Director (“Personnel Director”), may delegate any authority given to them under this Rule 14 to a subordinate employee EXCEPT THE AUTHORITY TO SUBMIT AND APPROVE LAY-OFF PLANS.

~~Section 14-20 30 Termination~~ Separation of During Employment Probationary Status
Holding Non-career, Trainee or Intern Probationary, or Employment Probationary Status
(Effective November 1, 1980; Rules Revision Memo 127A)

~~14-31 Basis~~

- A. An employee holding non-career, trainee or intern probationary, or employment probationary status may be ~~terminated~~ separated at any time in accordance with Rule 5 APPOINTMENTS AND STATUS. Such separation shall be final, except that it may be appealed on the grounds of alleged discrimination or violation of the City’s “Whistleblower Protection” ordinance in accordance with Rule 19 APPEALS.

~~14-32 Notice requirements~~

~~The employee being terminated shall receive or be sent a written notice of separation in accordance with Rule 16 DISCIPLINE AND DISMISSAL. (Effective January 26, 1984; Rules Revision Memo 52B)~~

- B. The employee shall be given written notice of separation on or before the employee’s last day as a City employee.
- C. Employees holding on-call, trainee or intern probationary, or employment probationary status may also be dismissed as provided in Rule 16 DISCIPLINE AND DISMISSAL.

Section 14-25 End of Limited Position

- A. Employees appointed to limited positions after January 16, 2004 shall be separated on the specified ending date of that position unless the duration of the position is extended. Such a separation is not considered a lay-off, and AS SUCH, THE PROVISIONS OF SECTION 14-40 LAY-OFF, ET SEQ., ARE NOT APPLICABLE TO SUCH A SEPARATION employees so affected are not entitled to the lay-off protections specified elsewhere in this Rule 14.
- B. The employee shall be given written notice of separation on or before the employee’s last day as a City employee.
- C. Employees appointed to limited positions after January 16, 2004 may also be dismissed as provided in Rule 16 DISCIPLINE AND DISMISSAL, or disqualified as provided in this Rule 14.

D. *If a department or agency wants to separate a limited employee with career status before the ending date of the employee's limited position without recourse to dismissal under Rule 16 or disqualification under this Rule 14, the department or agency shall follow the lay-off procedures set forth in this Rule 14. However, employees appointed to limited positions after January 16, 2004 are not entitled to the lay-off protections RIGHT TO TRANSFER, BE RE-ASSIGNED, OR DEMOTE IN LIEU OF LAY-OFF, specified in SECTION 14-40 LAY-OFF, ET SEQ. this Rule 14, OR THE RIGHT TO RE-INSTATEMENT, SPECIFICIED IN RULE 3 SELECTION.*

Section 14-30 ~~20~~ Disqualification

Disqualification is an involuntary, no-fault separation of an employee, based on

14-21 ~~General~~

~~An employee shall be separated without fault, hereinafter called a disqualification, if a legal, physical, mental or emotional impairment or incapacity **of the employee**, occurring or discovered after appointment, **which** prevents satisfactory performance of the essential functions of the position. Prior to disqualification because of physical or mental impairment or incapacity, if it is determined pursuant to the rule on reasonable accommodations for individuals with disabilities that an employee is disabled within the meaning of the Americans with Disabilities Act of 1990 (ADA), the agency or department must have attempted to make a reasonable accommodation pursuant to that rule. If a reasonable accommodation cannot be provided or the employee rejects a reasonable accommodation, disqualification may be initiated.~~

~~If it is determined that an employee is not disabled within the meaning of the ADA, the agency or department need not attempt to make a reasonable accommodation and disqualification may be initiated.~~

14-31 ~~22~~ Grounds for Disqualification
(Effective 3/2/82; Rules Rev. 30B)

An employee ~~shall be deemed to~~ **may** be disqualified if any of the following conditions occur:

- A. Pre-employment physical examination: When an applicant is appointed before the final report of a **post-offer medical** ~~pre-employment health~~ examination is received, and the final report shows that the employee is **unable** ~~not physically qualified~~ to perform the **essential functions** ~~duties~~ of the position **with or without reasonable accommodations**;

B. Physical or mental impairment or incapacity:

1. When an employee becomes unable to perform the essential functions of the position because of mental or physical impairment or incapacity.
2. **Before an employee can be disqualified because of a physical or mental impairment or incapacity, the employee's department or agency must have initiated the interactive process under the Americans with Disabilities Act of 1990 (ADA) (as described in Rule 5 APPOINTMENTS AND STATUS), and the ADA Coordinator must have referred the employee's case back to the department or agency without making an accommodation.**

C. Licensure, certification and other legal requirements:

1. When laws require a license, certification, or other authorization by a federal, state or local governmental entity to perform the **essential functions** duties of a position and the employee does not have the required authorization.
2. **An employee shall be relieved immediately of any duties requiring a license, certification, or other legal authorization if the employee lacks such license, certification, or other legal authorization. If the license, certification, or other legal authorization is required to perform the essential functions of the position, the employee shall be immediately placed on unpaid leave, unless the employee elects to substitute available paid leave for the unpaid leave. The employee's pay or classification shall not otherwise be affected prior to the completion of the disqualification proceedings.**

14- ~~23~~ **32** Procedure

- A. The appointing authority shall follow the procedures for pre-disciplinary meetings before taking any action on the disqualification.
- B. The final notice of disqualification shall contain the same statement of the reason for the disqualification as contained in the pre-disqualification letter. Substantial amendments or additions are permitted only by repeating the pre-disqualification notice and meeting procedure. The final notice shall also contain a notice that the employee may appeal the disqualification.
- C. **The appointing authority shall give the employee written notice of disqualification on or before the employee's last day as a City employee.**

~~However, an employee shall be relieved immediately of any duties requiring a license, certification, or other legal authorization if the employee lacks such license, certification, or other legal authorization. This change in duties shall in no way affect the employee's pay or classification prior to the completion of the disqualification proceedings.~~

~~14-24 Re-employment
(Effective May 4, 2007, Rule Revision Memo 18C)~~

~~Employees who have been separated as a result of a disqualification may be eligible for re-employment according to the provisions of Rule 3 **SELECTION.**~~

~~Section 14-40 Lay-off
(Effective August 1, 1980, Rule Revision Memo 124A; Revised March 19, 2004, Rule Revision Memo 247B)~~

14-41 Definitions

- A.** **Appropriation sub-account: Includes all divisions of appropriations recognized by the Office of Budget and Management, up to and including the tracking level, which is the lowest level of the account code at which expenditures and revenues are recorded.**
- B.** **Classification series: The arrangement in sequence of classifications where the levels of the duties are different but the types of duties and nature of the work are similar. For the purposes of lay-off, a classification series shall include first line supervisors and lead workers, if so designated for the classification series.**
- C.** **Documented performance: A verifiable assessment of an individual's work performance, including, but not limited to, PEPR ratings, disciplinary actions, and safety violations.**
- D.** **Lay-off:** The separation of career status unlimited **or limited** employee, ~~or a limited employee appointed prior to January 16, 2004 from the Career Service resulting from the abolishment of a position. (Revised Eff. 3/19/04, Rule Rev. 247 B)~~
- E.** **Lay-off groups: Within a classification in a lay-off unit, employment probationary and career status CAREER SERVICE employees are divided into the following groups WITHIN CLASSIFICATIONS IN A LAY-OFF UNIT for the purpose of determining proficiency adjustments under this Rule 14:**
- Group A - Employees whose total length of service is up to five (5) years;**
- Group B - Employees whose total length of service is five years and up to ten (10) years;**
- Group C - Employees whose total length of service is ten (10) years and up to fifteen (15) years;**
- Group D - Employees whose total length of service is fifteen (15) years and above.**

14-42 Order of Lay-off

~~A E.~~ Lay-off unit: ~~Layoffs shall be determined by layoff unit. Lay-off units are Appropriation accounts, appropriation sub-accounts, combinations of appropriation sub-accounts, or combinations of appropriation accounts which have been consolidated or de-consolidated. in accordance with paragraph 14-42-B Consolidation of appropriation accounts. (Revised Eff. 3/19/04, Rule Rev. 247B)~~

14-42 B= Consolidation of appropriation accounts

- ~~1~~ A. The Career Service Board ("Board") may consolidate appropriation accounts or appropriation sub-accounts within a department into one lay-off unit if it can be shown that there is a high correlation between the activities of one unit of the department and others proposed to be consolidated. ~~(Revised Eff. 3/19/04, Rule Rev. 247B)~~
- ~~2~~ .B. The Board may reverse the consolidation of appropriation accounts or appropriation sub-accounts making up one lay-off unit, or break a lay-off unit consisting of one appropriation account into sub-accounts or combinations of sub-accounts, based on business functions demonstrated by the department or upon a showing that circumstances giving rise to the consolidation are no longer applicable. ~~(Rev'd Eff. 3/19/04, Rule Rev. 247B)~~
- ~~3~~ C. A request for such consolidation or de-consolidation of appropriation accounts may be initiated by appointing authorities, employees, or the Personnel Director and shall be determined by the Board only after interested parties have been given an opportunity to be heard in accordance with Rule 2 **CAREER SERVICE AUTHORITY.**
- ~~4~~ D. Changes to lay-off units must be approved a minimum of forty-five (45) days prior to the effective date of the lay-off. ~~(Eff. 3/19/04, Rule Rev. 247B)~~

~~C.~~ ~~Appointing authority designates positions: The appointing authority shall determine the number of positions by class which are to be abolished within the lay-off unit.~~

~~D.~~ ~~Relation of positions to incumbents in layoff: When lay-off is involved, there is no relation between the positions which are abolished and the incumbents of those positions. The order of layoff is according to this Rule 9.~~

~~E.~~ ~~Establishment of layoff groups: After separating all non-Career status employees and abolishing all vacant positions in the class, the appointing authority shall divide the employees in the class whose positions are being abolished into the following groups:~~

~~Group A – Employees whose total length of service is up to five years;~~

~~Group B – Employees whose total length of service is five years and up to ten years;~~

~~Group C – Employees whose total length of service is ten years and up to fifteen years;~~

~~Group D – Employees whose total length of service is fifteen (15) years and above. (Revised Eff. 3/19/04, Rule Rev. 247B)~~

~~These lay off groups are for the purpose of determining proficiency adjustments as covered in paragraph 14-44 C Effect of proficiency.~~

~~F. Effect of special qualification on lay off group: When an employee possesses a significant and unique skill which cannot readily be learned by another employee and which is essential for the performance of the duties of the position, the Personnel Director, after thorough review and investigation, may determine that the possession of such a skill shall constitute an exception for lay off purposes only; provided, however, that should another employee possess such a skill, such employee scheduled to be laid off shall displace the incumbent.~~

14-43 Length of Service

- A. General rule: For lay-off purposes, length of service shall mean the total number of years, months, and days of continuous service in any class ~~ification~~ under ~~the~~ Career Service. This computation shall include time on leave, including unpaid leave, but shall not include service in any on-call position.
- 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 Eff. 3/19/04, Rule Rev. 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 were granted **military** leave of absence without pay 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 the **period of military** leave of absence without pay 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 Eff. 3/19/04, Rule Rev. 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 Eff. 3/19/04, Rule Rev. 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)~~
- C. Former Merit System employees: Employees transitioned from the merit system to **the** Career Service under the Human Services Department transition charter amendment effective January 1, 1999 shall be given credit for continuous service as follows:
1. At the time of the lay-off, employees who are assigned to the Department of Human Services and have been continuously assigned to said department since January 1, 1999 shall have their length of service calculated from the date the employee was employed with the merit system.
 2. After January 1, 1999, employees who voluntarily ~~transfer~~ **take an appointment to a position in** another department in the City shall have their length of service calculated from the date of continuous service with the City and County of Denver, provided that employees who involuntarily ~~transfer~~ **move** to another department shall have their length of service calculated pursuant to the previous subparagraph. ~~(Eff. 3/19/04, Rule Rev. 247B)~~

- D. Election Commission transition: Election Commission employees who are appointed to Career Service Election Commission positions pursuant to the charter amendment effective July 16, 2007 shall be given credit for continuous service as follows:
1. At the time of the layoff, employees who hold positions in the Election Division and have been continuously employed in this agency since July 16, 2007 shall have their length of service calculated from the date the employee's continuous service in a full or part-time position with the City began.
 2. After July 16, 2007, Election Division employees who voluntarily accept an appointment to a position in another department in the City shall have their length of service calculated from the date of continuous service with the Career Service, provided that employees who are involuntarily moved to another department shall have their length of service calculated pursuant to the previous subparagraph.
- E. Office of Telecommunications transition: Employees of the Office of Telecommunications as of July 31, 2011, who are subsequently appointed to Career Service positions in Technology Services shall be given credit for continuous service as follows:
1. At the time of the layoff, such employees who hold positions in Technology Services and have been continuously employed in this office since August 1, 2011 shall have their length of service calculated from the date the employee's continuous service in a full or part-time position with the City began.
 2. After August 1, 2011, such employees of Technology Services who voluntarily accept an appointment to a position outside of Technology Services shall have their length of service calculated from the date of continuous service with the Career Service, provided that employees who are involuntarily moved to another department shall have their length of service calculated pursuant to the previous subparagraph. (Effective May 31, 2011; Rules Revision Memo 53C)

14-44 Layoff planning

- A.** Layoff planning, including actions in lieu of layoff, is the responsibility of the appointing authority. However, the **Career Service Authority ("CSA")** is available for procedural assistance and consultation as soon as the appointing authority has decided the number of positions by class**ification** to be abolished.

- B. Audit and approval of lay-off plan: Before an official notice of layoff is given in accordance with ***this Rule 14***, a written lay-off plan for the lay-off unit ***SIGNED BY THE APPOINTING AUTHORITY*** shall be submitted to CSA and shall have been audited and approved in writing by the Personnel Director for conformance to Section 14-40 Lay-Off of the Personnel Rules, including all sub-sections thereof. ***IN THE CASE OF A LAY-OFF IN THE CSA, THE LAY-OFF PLAN SHALL BE SIGNED BY THE THE MANAGER RESPONSIBLE FOR THE LAY-OFF UNIT AFFECTED BY THE LAY-OFF.***

14-45 Lay-off Procedure

- A. Appointing authority designates positions: The appointing authority shall determine the number of positions which are to be abolished within a lay-off unit by classification.**
- B. Relation of positions to incumbents in lay-off: There is no relation between the positions which are abolished in a lay-off and the employees in those positions, unless the position being abolished is a limited position occupied by an employee who was appointed to that position after January 16, 2004. In that case, the employee being laid off shall be the incumbent of that position. Otherwise, the sequence of lay-offs is according to this Rule 14.**

C. ~~14-44~~ Sequence of Lay-offs:

- 1. After separating all non-Career status employees in the classification, EXCEPT ANY EMPLOYEES SERVING EMPLOYMENT PROBATION WHO HAVE BEEN DETERMINED TO HAVE A SPECIAL QUALIFICATION BY THE PERSONNEL DIRECTOR AS PROVIDED IN PARAGRAPH F OF THIS SUBSECTION, the appointing authority shall lay-off** ~~A. General:~~ unlimited employees, and limited employees appointed to their positions before ***prior to*** January ~~17~~ ***16***, 2004 in Group A shall be laid off before employees in Group B, employees in Group B before employees in Group C, etc.
- 2. Within lay-off groups, employees with shorter length of service will be laid off first, unless the appointing authority chooses to rank employees based on proficiency criteria.**

⊞ D. Effect of military service credits: Employees eligible for military service credits, who have the same or greater length of service, shall be placed higher in rank order than employees who are not eligible for military service credits.

⊞ E. Effect of proficiency:

1. Employees eligible for military service credits shall have their rank order determined solely on the basis of seniority.
2. Within layoff groups, the appointing authority may choose to rank employees on their knowledge, skills, abilities, expertise and/or documented performance ("proficiency") and place employees with greater proficiency above employees with longer length of service who are not eligible for military service credits. In no event may a more proficient employee be placed higher than an employee with longer length of service who is eligible for military service credits. ~~Career Service Authority ("CSA")~~ must review and approve the criteria and procedures used to determine proficiency as part of its responsibility to audit and approve the lay-off plan as set forth in **this Rule 14** ~~paragraph 14-46 B. (Revised Eff. 3/19/04, Rule Rev. 247B)~~
3. Within layoff groups, the appointing authority may place below employees with the lesser length of service the less proficient employee. In no event, however, shall an employee eligible for military service credits be placed lower than an employee with lesser length of service.

F. Effect of special qualification on lay-off group: When an employee possesses a significant and unique skill which cannot readily be learned by another employee and which is essential for the performance of the duties of the position, the Personnel Director, after investigation and review, may determine that the possession of such a skill shall constitute an exception for lay-off purposes only; provided, however, that should another employee, with more seniority, possess such a skill, such employee scheduled to be laid off shall displace the incumbent. THIS DETERMINATION MAY BE MADE EVEN IF THE EMPLOYEE IN QUESTION IS SERVING EMPLOYMENT PROBATION.

14-~~46~~ ~~45~~ Actions In Lieu of Lay-off

A. Re-assignment or transfer appointment:

1. An employee selected to be laid off shall be given a transfer appointment to any vacancy for which qualified within the lay-off unit, subject to paragraphs 14-~~46~~ ~~45~~ C, ~~D~~ and D E. (~~Rev Eff. 3/19/04, Rule Rev. 247B~~)
2. ~~E~~ Re-assignment to limited position: if there are limited positions in the same class ification in the lay-off unit, an employee selected to be laid-off shall be given the choice of being re-assigned to a limited position in lieu of lay-off, even though it is necessary to separate another employee from that position. This offer shall be made regardless of the length of service of the employee in the limited position, # so long as the limited employee was appointed to the limited position after January 16, 2004. This re-assignment shall not result in removal of the employee from the reinstatement list or lists. (~~revised eff. 3/19/04, rule rev. 247b~~)

B. Demotional Appointment *in Lieu of Lay-off*

1. General: An employee selected to be laid off shall be entitled to a demotional appointment in lieu of lay-off to an existing position in the same lay-off unit in a class ification below the employee's present class ification which is the highest ranking class ification meeting each of the following conditions:
 - a. The employee possesses the knowledge, skills, ability, and expertise to perform the essential duties of the position;
 - b. The class ification is in the same class ification series as the employee's present class ification, or the employee previously held a position in such class ification; and
 - c. The employee's total length of service as defined in this Rule 14 subsection 14-43 Length of Service must be greater than that of at least one (1) of the incumbents in the class ification; or there must be a vacancy in the class ification. (~~Revised Eff. 3/19/04, Rule Rev. 247B~~)

2. Effect on incumbent of position to which **the** demotional appointment **in lieu of lay-off** is made: When it has been determined that a demotional appointment **in lieu of lay-off** to a filled position in the lay-off unit which meets the criteria in subparagraph 14-45 B.1 ~~General~~, should take place, the person in the class **ification** of such position who has the shortest length of service as defined in **this Rule 14** ~~subsection 14-43 Length of Service~~ shall be the employee who is laid off. The employee in the lower class **ification** shall be entitled to actions in lieu of lay-off pursuant to this **Rule 14** ~~subsection 14-45~~.
- C. Effect of special qualifications: ~~If a vacancy in a position in a pay grade with the same job rate, or if the position in the class to which such employee is to be given a **transfer, re-assignment or** demotional appointment **in lieu of lay-off**, is one which requires a special skill as defined in **this Rule 14**, paragraph 14-42 F **Effect of special qualification on lay-off group**, the Personnel Director, after thorough review and investigation, may designate the possession of such skill as a qualification for a **n** demotional appointment **in lieu of lay-off** to that position. **THIS DESIGNATION MAY BE GRANTED EVEN IF THE POSITION IS VACANT, OR OCCUPIED BY AN EMPLOYEE SERVING EMPLOYMENT PROBATION, OR IS A LIMITED POSITION OCCUPIED BY AN EMPLOYEE WHO WAS APPOINTED TO THAT POSITION AFTER JANUARY 16, 2004.**~~
- D. Effect of position type: If the person designated to be laid off holds a full-time unlimited position, and the position **to** which **they can be re-assigned, transferred, or demoted to in lieu of lay-off under this Rule 14** ~~meets the provisions of paragraphs 14-45 A or B.1~~ is a part-time, on call, or limited position, the employee shall be offered a choice of the part-time, on call, or limited position, or the highest available full-time unlimited position **to which they can demote to in lieu of lay-off under this Rule 14** ~~meeting the qualifications of paragraph 14-45 B.1, for which qualified.~~
- E F.** Voluntary action in lieu of lay-off: Employees who demote to a position other than the one **to which they can demote to in lieu of lay-off under this Rule 14** ~~described in paragraph 14-45 B~~ or who resign during a period of agency lay-offs, and these actions occur prior to the actual lay-off date, may retain their reinstatement rights pursuant to the following procedure:
1. All demotions and separations during periods of lay-off will be examined to determine the causes of the transaction. Appointing authorities are asked to aid this process by entering an appropriate statement in the ~~Remarks Section of~~ **on** the personnel action when a voluntary demotion or separation is the direct result of current lay-off proceedings.
 2. If the CSA determines that the demotion or separation is in lieu of layoff, it will place the employee's name on the appropriate re-instatement list.
 3. Such actions in lieu of lay-off shall be considered to be voluntary actions and pay shall be set in accordance with the provisions of Rule 9 **PAY ADMINISTRATION** governing voluntary demotions. ~~(Revised Eff. 3/19/04, Rule Rev. 247B; Eff. 4/1/06; Rule Rev. 7C).~~

14-~~47~~ 46 Notice of Lay-Off

- A. ~~Layoff planning: Layoff planning, including actions in lieu of layoff, is the responsibility of the appointing authority. However, the CSA is available for procedural assistance and consultation as soon as the appointing authority has decided the number of positions by class to be abolished.~~
- B. ~~Audit and approval of lay-off plan: Before an official notice of layoff is given in accordance with paragraph 14-46 C Thirty day notices, a written lay-off plan for the lay-off unit shall be submitted to CSA and shall have been audited and approved in writing by the Personnel Director for conformance to Section 14-40 Lay Off of the Personnel Rules, including all subsections thereof. (Revised Eff. 3/19/04, Rule Rev. 247B)~~
- C. ~~Thirty day notices: The appointing authority shall give final **written** notice of lay-off to **an** affected employee a minimum of thirty (30) calendar days before **the employee's last day as a City employee** the effective date of the lay-off. A copy of each such notice shall be sent to the CSA. The period of time shall be computed in accordance with Rule 19 APPEALS. (Effective April 1, 1982; Rules Revision Memo 348; Revised Eff. 3/19/04, Rule Rev. 247B)~~

14-47 Effect on Leave

(Revised effective January 1, 2010; Rules Revision Memo 42C)

- A. ~~Compensatory time and vacation leave: An employee shall be paid for all eligible leave and compensatory time credits in accordance with Rule 9 PAY ADMINISTRATION and Rule 10 PAID LEAVE.~~
- B. ~~Sick leave: Pay for eligible sick leave credits and restoration of the balance of sick leave credits upon re-instatement shall be in accordance with Rule 10 PAID LEAVE.~~

14-48 Re-employment, Re-instatement and Promotional Re-instatement Rights

(Effective May 4, 2007, Rule Revision Memo 18C)

- A. ~~Re-employment or Re-instatement appointments: The **right** ability of a former unlimited employee, or limited employee appointed to their position before January 16, 2004, who was laid off, to be re-employed or re-instated **is** are set forth in Rule 3 SELECTION.~~
- B. Promotional re-instatement appointments: The right of an employee, who was given a demotion in lieu of lay-off, to be re-instated is set forth in Rule 3 SELECTION.**
- C. Restoration of the balance of sick leave credits upon re-instatement shall be in accordance with Rule 10 PAID LEAVE.**

14-49 Appeal

An employee who is laid off or who is demoted in lieu of layoff may appeal the action in accordance with Rule 19 **APPEALS**.

Section 14-50 Resignation

A. Resignation is the voluntary separation by an employee from the Career Service.

~~14-51 Voluntary Resignation~~

A. B. Notice to supervisor: It is the responsibility of an employee who plans to resign in good standing from the Career Service to **provide written notice to** notify his **or her** immediate supervisor **at least ten (10) calendar days** in advance **of the employee's last day as a City employee**. ~~as follows:~~

- ~~1. At least ten (10) calendar days for employees in full-time or part-time unlimited positions.~~
- ~~2. At least four (4) calendar days for employees in full-time or part-time limited positions.~~
- ~~3. At least one (1) calendar day for employees in on-call positions.~~

The appointing authority may waive this requirement for good and sufficient reasons.

~~B. Payment for Accrued Vacation Leave and Compensatory Time:
(Revised effective January 1, 2010; Rules Revision Memo 42C)~~

~~Employees who resign shall receive payment for all accrued paid time off, vacation leave and compensatory time for which they are eligible according to the provisions of Rule 9 **PAY ADMINISTRATION** and Rule 10 **PAID LEAVE**.~~

~~C. Acts Comprising Resignation of Incumbents in On-call Positions:~~

~~The following acts of incumbents in on-call positions shall be interpreted as resignations:~~

- ~~1. Failure to inform a supervisor within two (2) calendar weeks of the date of a change of an address or a telephone number;~~
- ~~2. Failure to respond within ten (10) calendar days of a date of mailing of an official communication requiring a response;~~
- ~~3. Failure to respond to three (3) consecutive requests to work, provided that at least three (3) calendar weeks have elapsed between the first request and the last request.~~

~~If any of the grounds specified in the preceding paragraphs is found to exist, the employee shall be deemed to have resigned, and the supervisor shall advise the CSA in writing of the resignation, specifying the grounds.~~

~~D~~ **C.** Job abandonment of position:

An employee's failure to:

- 1. Give notice for return from unpaid military leave within the time limits stated in Rule 11 UNPAID AND EXTENDED LEAVE; or**
- 2. An employee shall be deemed to have abandoned his or her position if the employee fails to Report for his or her assigned shift and fail to notify his or her immediate supervisor of the absence prior to the start of his or her shift for three (3) consecutive work days**

May be called "job abandonment" and treated like a resignation. ~~This situation shall be termed "job abandonment."~~ The required signature of the employee on the resignation shall be waived. Instead, the appointing authority shall file a statement indicating ~~that~~ **how** the conditions of this paragraph have been met.

D. Appointing authorities are responsible for approving or disapproving employee requests to use paid or unpaid leave (unless otherwise provided in these rules) between the time notice of resignation is given and the employee's last day as a City employee.

~~14-52 Re-employment
(Effective May 4, 2007, Rule Revision Memo 18C)~~

~~Employees who resign may be eligible for re-employment according to the provisions of Rule 3~~ **SELECTION.**

~~Section 14-60~~ **51 Retirement**
(Effective May 4, 2007, Rule Revision Memo 18C)

Any employee in the Career Service may **designate his or her resignation as a retire**~~ment~~, at his own or her request, when he or she meets the eligibility requirements of the Denver Employees Retirement Plan.

Section 14-55 Death

In the case of a separation caused by the death of an employee, the employee's last day as a City employee shall be the date of death.

Section 14-~~60~~ 70 Change in Type of Separation

When additional facts are revealed that substantially alter the basis for the original decision as to type of separation, the type of separation may be changed. The Personnel Director, upon receipt of a written request together with documentation of the reasons for the change, will approve or disapprove the requested change in writing. Only the appointing authority who authorized signed the personnel action form separating the employee, or his or her successor shall be authorized to request a change in the type of separation. A copy of the Personnel Director's written approval shall be attached to the personnel action form which shall show ~~under remarks~~ the type of change and the reason for the change.

**RULE 14
SEPARATION OTHER THAN DISMISSAL**

Purpose Statement: The purpose of this rule is to define the circumstances and processes by which an employee in the Career Service may be separated from employment other than by dismissal.

Section 14-10 Separation Other Than Dismissal

- A.** The separation of an employee from the Career Service other than **by** dismissal shall be designated one of the following:
- 1.** Disqualification;
 - 2.** **Separation of non-career status employees, trainees or interns, or employees serving employment probation;**
 - 3.** **End of limited position;**
 - 4.** Lay-off;
 - 5.** Resignation;
 - 6.** Retirement;
 - 7.** Death;
- B.** **Written notices required under this Rule 14 shall be served either in person with a certificate of hand delivery, or by first class U.S. mail, with a certificate of mailing.**
- C.** The personnel action form shall show the reason for the separation and **the employee's** last day **as a City employee.** The effective date **of the separation** shall be the **day after the employee's** last day **as a City employee.**
- D.** **Employees who separate from employment with the City shall receive payment for all compensatory time, paid time off, and vacation and sick leave, for which they are eligible according to the provisions of Rule 9 PAY ADMINISTRATION and Rule 10 PAID LEAVE.**
- E.** **A separation of an employee under this Rule 14 is considered to be a separation without fault. An employee who has been separated under this Rule 14 may be considered for re-employment without examination as provided in Rule 3 SELECTION.**

Section 14-15 Designees

Appointing authorities, including the Career Service Personnel Director (“Personnel Director”), may delegate any authority given to them under this Rule 14 to a subordinate employee EXCEPT THE AUTHORITY TO SUBMIT AND APPROVE LAY-OFF PLANS.

Section 14-20 Separation of Employees Holding Non-career, Trainee or Intern Probationary, or Employment Probationary Status

- A. An employee holding *non-career, trainee or intern probationary, or* employment probationary status may be separated at any time in accordance with Rule 5 **APPOINTMENTS AND STATUS. Such separation shall be final, except that it may be appealed on the grounds of alleged discrimination or violation of the City’s “Whistleblower Protection” ordinance in accordance with Rule 19 APPEALS.**
- B. The employee shall be given written notice of separation on or before the employee’s last day as a City employee.
- C. Employees holding on-call, trainee or intern probationary, or employment probationary status may also be dismissed as provided in Rule 16 DISCIPLINE AND DISMISSAL.

Section 14-25 End of Limited Position

- A. Employees appointed to limited positions after January 16, 2004 shall be separated on the specified ending date of that position unless the duration of the position is extended. Such a separation is not considered a lay-off, and AS SUCH, THE PROVISIONS OF SECTION 14-40 LAY-OFF, ET SEQ., ARE NOT APPLICABLE TO SUCH A SEPARATION.
- B. The employee shall be given written notice of separation on or before the employee’s last day as a City employee.
- C. Employees appointed to limited positions after January 16, 2004 may also be dismissed as provided in Rule 16 DISCIPLINE AND DISMISSAL, or disqualified as provided in this Rule 14.
- D. If a department or agency wants to separate a limited employee with career status before the ending date of the employee’s limited position without recourse to dismissal under Rule 16 or disqualification under this Rule 14, the department or agency shall follow the lay-off procedures set forth in this Rule 14. However, employees appointed to limited positions after January 16, 2004 are not entitled to the RIGHT TO TRANSFER, BE RE-ASSIGNED, OR DEMOTE IN LIEU OF LAY-OFF, specified in SECTION 14-40 LAY-OFF, ET SEQ., OR THE RIGHT TO RE-INSTATEMENT, SPECIFICIED IN RULE 3 SELECTION.

Section 14-30 Disqualification

Disqualification is an involuntary, no-fault separation of an employee, based on a legal, physical, mental or emotional impairment or incapacity **of the employee**, occurring or discovered after appointment, **which** prevents satisfactory performance of the essential functions of the position.

14-31 Grounds for Disqualification

An employee **may** be disqualified if any of the following conditions occur:

- A. Pre-employment physical examination: When an applicant is appointed before the final report of a **post-offer medical** examination is received, and the final report shows that the employee is **unable** to perform the **essential functions** of the position **with or without reasonable accommodations**;
- B. Physical or mental impairment or incapacity:
 - 1.** When an employee becomes unable to perform the essential functions of the position because of mental or physical impairment or incapacity.
 - 2.** **Before an employee can be disqualified because of a physical or mental impairment or incapacity, the employee's department or agency must have initiated the interactive process under the Americans with Disabilities Act of 1990 (ADA) (as described in Rule 5 APPOINTMENTS AND STATUS), and the ADA Coordinator must have referred the employee's case back to the department or agency without making an accommodation.**
- C. Licensure, certification and other legal requirements:
 - 1.** When laws require a license, certification, or other authorization by a federal, state or local governmental entity to perform the **essential functions** ~~duties~~ of a position and the employee does not have the required authorization.
 - 2.** **An employee shall be relieved immediately of any duties requiring a license, certification, or other legal authorization if the employee lacks such license, certification, or other legal authorization. If the license, certification, or other legal authorization is required to perform the essential functions of the position, the employee shall be immediately placed on unpaid leave, unless the employee elects to substitute available paid leave for the unpaid leave. The employee's pay or classification shall not otherwise be affected prior to the completion of the disqualification proceedings.**

14- **32** Procedure

- A.** The appointing authority shall follow the procedures for pre-disciplinary meetings before taking any action on the disqualification.
- B.** The final notice of disqualification shall contain the same statement of the reason for the disqualification as contained in the pre-disqualification letter. Substantial amendments or additions are permitted only by repeating the pre-disqualification notice and meeting procedure. The final notice shall also contain a notice that the employee may appeal the disqualification.
- C.** **The appointing authority shall give the employee written notice of disqualification on or before the employee's last day as a City employee.**

Section 14-40 Lay-off

14-41 Definitions

- A.** **Appropriation sub-account: Includes all divisions of appropriations recognized by the Office of Budget and Management, up to and including the tracking level, which is the lowest level of the account code at which expenditures and revenues are recorded.**
- B.** **Classification series: The arrangement in sequence of classifications where the levels of the duties are different but the types of duties and nature of the work are similar. For the purposes of lay-off, a classification series shall include first line supervisors and lead workers, if so designated for the classification series.**
- C.** **Documented performance: A verifiable assessment of an individual's work performance, including, but not limited to, PEPR ratings, disciplinary actions, and safety violations.**
- D.** **Lay-off:** The separation of career status unlimited **or limited** employee from the Career Service resulting from the abolishment of a position.

E. Lay-off groups: CAREER SERVICE employees are divided into the following groups WITHIN CLASSIFICATIONS IN A LAY-OFF UNIT:

Group A - Employees whose total length of service is up to five (5) years;

Group B - Employees whose total length of service is five years and up to ten (10) years;

Group C - Employees whose total length of service is ten (10) years and up to fifteen (15) years;

Group D - Employees whose total length of service is fifteen (15) years and above.

F. Lay-off unit: Appropriation accounts, appropriation sub-accounts, combinations of appropriation sub-accounts, or combinations of appropriation accounts which have been consolidated or de-consolidated.

14-42 Consolidation of appropriation accounts

A. The Career Service Board ("Board") may consolidate appropriation accounts or appropriation sub-accounts within a department into one lay-off unit if it can be shown that there is a high correlation between the activities of one unit of the department and others proposed to be consolidated.

B. The Board may reverse the consolidation of appropriation accounts or appropriation sub-accounts making up one lay-off unit, or break a lay-off unit consisting of one appropriation account into sub-accounts or combinations of sub-accounts, based on business functions demonstrated by the department or upon a showing that circumstances giving rise to the consolidation are no longer applicable.

C. A request for such consolidation or de-consolidation of appropriation accounts may be initiated by appointing authorities, employees, or the Personnel Director and shall be determined by the Board only after interested parties have been given an opportunity to be heard in accordance with Rule 2 **CAREER SERVICE AUTHORITY.**

D. Changes to lay-off units must be approved a minimum of forty-five (45) days prior to the effective date of the lay-off.

14-43 Length of Service

- A. General rule: For lay-off purposes, length of service shall mean the total number of years, months, and days of continuous service in any classification under the Career Service. This computation shall include time on leave, including unpaid leave, but shall not include service in any on-call position.
- 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:
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.
 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 were granted military leave for the purpose of serving on active military duty shall not be credited with military service time, but shall have the 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.
 - 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.

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.
- C. Former Merit System employees: Employees transitioned from the merit system to **the** Career Service under the Human Services Department transition charter amendment effective January 1, 1999 shall be given credit for continuous service as follows:
1. At the time of the lay-off, employees who are assigned to the Department of Human Services and have been continuously assigned to said department since January 1, 1999 shall have their length of service calculated from the date the employee was employed with the merit system.
 2. After January 1, 1999, employees who voluntarily **take an appointment to a position in** another department in the City shall have their length of service calculated from the date of continuous service with the City and County of Denver, provided that employees who involuntarily **move** to another department shall have their length of service calculated pursuant to the previous subparagraph.
- D. Election Commission transition: Election Commission employees who are appointed to Career Service Election Commission positions pursuant to the charter amendment effective July 16, 2007 shall be given credit for continuous service as follows:
1. At the time of the layoff, employees who hold positions in the Election Division and have been continuously employed in this agency since July 16, 2007 shall have their length of service calculated from the date the employee's continuous service in a full or part-time position with the City began.
 2. After July 16, 2007, Election Division employees who voluntarily accept an appointment to a position in another department in the City shall have their length of service calculated from the date of continuous service with the Career Service, provided that employees who are involuntarily moved to another department shall have their length of service calculated pursuant to the previous subparagraph.

- E. Office of Telecommunications transition: Employees of the Office of Telecommunications as of July 31, 2011, who are subsequently appointed to Career Service positions in Technology Services shall be given credit for continuous service as follows:
1. At the time of the layoff, such employees who hold positions in Technology Services and have been continuously employed in this office since August 1, 2011 shall have their length of service calculated from the date the employee's continuous service in a full or part-time position with the City began.
 2. After August 1, 2011, such employees of Technology Services who voluntarily accept an appointment to a position outside of Technology Services shall have their length of service calculated from the date of continuous service with the Career Service, provided that employees who are involuntarily moved to another department shall have their length of service calculated pursuant to the previous subparagraph. (Effective May 31, 2011; Rules Revision Memo 53C)

14-44 Layoff planning

- A.** Layoff planning, including actions in lieu of layoff, is the responsibility of the appointing authority. However, the **Career Service Authority ("CSA")** is available for procedural assistance and consultation as soon as the appointing authority has decided the number of positions by classification to be abolished.
- B.** Audit and approval of lay-off plan: Before an official notice of layoff is given in accordance with **this Rule 14**, a written lay-off plan for the lay-off unit **SIGNED BY THE APPOINTING AUTHORITY** shall be submitted to CSA and shall have been audited and approved in writing by the Personnel Director for conformance to Section 14-40 Lay-Off of the Personnel Rules, including all sub-sections thereof. **IN THE CASE OF A LAY-OFF IN THE CSA, THE LAY-OFF PLAN SHALL BE SIGNED BY THE THE MANAGER RESPONSIBLE FOR THE LAY-OFF UNIT AFFECTED BY THE LAY-OFF.**

14-45 Lay-off Procedure

- A.** **Appointing authority designates positions: The appointing authority shall determine the number of positions which are to be abolished within a lay-off unit by classification.**
- B.** **Relation of positions to incumbents in lay-off: There is no relation between the positions which are abolished in a lay-off and the employees in those positions, unless the position being abolished is a limited position occupied by an employee who was appointed to that position after January 16, 2004. In that case, the employee being laid off shall be the incumbent of that position. Otherwise, the sequence of lay-offs is according to this Rule 14.**

C. Sequence of Lay-offs:

1. **After separating all non-Career status employees in the classification, EXCEPT ANY EMPLOYEES SERVING EMPLOYMENT PROBATION WHO HAVE BEEN DETERMINED TO HAVE A SPECIAL QUALIFICATION BY THE PERSONNEL DIRECTOR AS PROVIDED IN PARAGRAPH F OF THIS SUBSECTION, the appointing authority shall lay-off** unlimited employees, and limited employees appointed to their positions **prior to** January **17**, 2004 in Group A before employees in Group B, employees in Group B before employees in Group C, etc.
2. **Within lay-off groups, employees with shorter length of service will be laid off first, unless the appointing authority chooses to rank employees based on proficiency criteria.**

D. Effect of military service credits: Employees eligible for military service credits, who have the same or greater length of service, shall be placed higher in rank order than employees who are not eligible for military service credits.

E. Effect of proficiency:

1. Employees eligible for military service credits shall have their rank order determined solely on the basis of seniority.
2. Within layoff groups, the appointing authority may choose to rank employees on their knowledge, skills, abilities, expertise and/or documented performance ("proficiency") and place employees with greater proficiency above employees with longer length of service who are not eligible for military service credits. In no event may a more proficient employee be placed higher than an employee with longer length of service who is eligible for military service credits. CSA must review and approve the criteria and procedures used to determine proficiency as part of its responsibility to audit and approve the lay-off plan as set forth in **this Rule 14.**
3. Within layoff groups, the appointing authority may place below employees with the lesser length of service the less proficient employee. In no event, however, shall an employee eligible for military service credits be placed lower than an employee with lesser length of service.

F. **Effect of special qualification on lay-off group: When an employee possesses a significant and unique skill which cannot readily be learned by another employee and which is essential for the performance of the duties of the position, the Personnel Director, after investigation and review, may determine that the possession of such a skill shall constitute an exception for lay-off purposes only; provided, however, that should another employee, with more seniority, possess such a skill, such employee scheduled to be laid off shall displace the incumbent. THIS DETERMINATION MAY BE MADE EVEN IF THE EMPLOYEE IN QUESTION IS SERVING EMPLOYMENT PROBATION.**

14-~~46~~ Actions In Lieu of Lay-off

A. Re-assignment or transfer appointment:

1. An employee selected to be laid off shall be given a transfer appointment to any vacancy for which qualified within the lay-off unit, subject to paragraphs 14-~~46~~ C, and D.
2. Re-assignment to limited position: if there are limited positions in the same class ification in the lay-off unit, an employee selected to be laid-off shall be given the choice of being re-assigned to a limited position in lieu of lay-off, even though it is necessary to separate another employee from that position. This offer shall be made regardless of the length of service of the employee in the limited position, so long as the limited employee was appointed to the limited position after January 16, 2004. This re-assignment shall not result in removal of the employee from the reinstatement list or lists.

B. Demotion *in Lieu of Lay-off*

1. General: An employee selected to be laid off shall be entitled to a demotion in lieu of lay-off to an existing position in the same lay-off unit in a class ification below the employee's present class ification which is the highest ranking class ification meeting each of the following conditions:
 - a. The employee possesses the knowledge, skills, ability, and expertise to perform the essential duties of the position;
 - b. The class ification is in the same class ification series as the employee's present class ification, or the employee previously held a position in such class ification; and
 - c. The employee's total length of service as defined in this Rule 14 must be greater than that of at least one (1) of the incumbents in the class ification; or there must be a vacancy in the class ification.
2. Effect on incumbent of position to which *the* demotion *in lieu of lay-off* is made: When it has been determined that a demotion in lieu of lay-off to a filled position in the lay-off unit should take place, the person in the class ification of such position who has the shortest length of service as defined in this Rule 14 shall be the employee who is laid off. The employee in the lower class ification shall be entitled to actions in lieu of lay-off pursuant to this Rule 14.

- C. Effect of special qualifications: If the position to which such employee is to be given a transfer, re-assignment or demotion in lieu of lay-off, is one which requires a special skill as defined in this Rule 14, the Personnel Director, after thorough review and investigation, may designate the possession of such skill as a qualification for an appointment in lieu of lay-off to that position. **THIS DESIGNATION MAY BE GRANTED EVEN IF THE POSITION IS VACANT, OR OCCUPIED BY AN EMPLOYEE SERVING EMPLOYMENT PROBATION, OR IS A LIMITED POSITION OCCUPIED BY AN EMPLOYEE WHO WAS APPOINTED TO THAT POSITION AFTER JANUARY 16, 2004.**
- D. Effect of position type: If the person designated to be laid off holds a full-time unlimited position, and the position to which they can be re-assigned, transferred, or demoted to in lieu of lay-off under this Rule 14 is a part-time, on call, or limited position, the employee shall be offered a choice of the part-time, on call, or limited position, or the highest available full-time unlimited position to which they can demote to in lieu of lay-off under this Rule 14, for which qualified.
- E.** Voluntary action in lieu of lay-off: Employees who demote to a position other than the one to which they can demote to in lieu of lay-off under this Rule 14 or who resign during a period of agency lay-offs, and these actions occur prior to the actual lay-off date, may retain their reinstatement rights pursuant to the following procedure:
1. All demotions and separations during periods of lay-off will be examined to determine the causes of the transaction. Appointing authorities are asked to aid this process by entering an appropriate statement on the personnel action when a voluntary demotion or separation is the direct result of current lay-off proceedings.
 2. If the CSA determines that the demotion or separation is in lieu of layoff, it will place the employee's name on the appropriate re-instatement list.
 3. Such actions in lieu of lay-off shall be considered to be voluntary actions and pay shall be set in accordance with the provisions of Rule 9 **PAY ADMINISTRATION** governing voluntary demotions.

14-~~47~~ Notice of Lay-Off

The appointing authority shall give final written notice of lay-off to an affected employee a minimum of thirty (30) calendar days before the employee's last day as a City employee. A copy of each such notice shall be sent to the CSA. The period of time shall be computed in accordance with Rule 19 **APPEALS**.

14-48 Re-instatement

- A. Re-instatement appointments: The **right** of a former employee, who was laid off, to be re-instated **is** set forth in Rule 3 **SELECTION**.
- B. Promotional re-instatement appointments: The right of an employee, who was given a demotion in lieu of lay-off, to be re-instated is set forth in Rule 3 SELECTION.**
- C. Restoration of the balance of sick leave credits upon re-instatement shall be in accordance with Rule 10 PAID LEAVE.**

14-49 Appeal

An employee who is laid off or who is demoted in lieu of layoff may appeal the action in accordance with Rule 19 **APPEALS**.

Section 14-50 Resignation

- A. Resignation is the voluntary separation by an employee from the Career Service.**
- B. Notice to supervisor:** It is the responsibility of an employee who plans to resign in good standing from the Career Service to **provide written notice to** his **or her** immediate supervisor **at least ten (10) calendar days** in advance **of the employee's last day as a City employee**. The appointing authority may waive this requirement for good and sufficient reasons.
- C. Job abandonment:**
- An employee's failure to:**
- 1. Give notice for return from unpaid military leave within the time limits stated in Rule 11 UNPAID AND EXTENDED LEAVE; or**
 - 2. Report for his or her assigned shift and notify his or her immediate supervisor of the absence prior to the start of his or her shift for three (3) consecutive work days**
- May be called "job abandonment" and treated like a resignation.** The required signature of the employee on the resignation shall be waived. Instead, the appointing authority shall file a statement indicating **how** the conditions of this paragraph have been met.
- D. Appointing authorities are responsible for approving or disapproving employee requests to use paid or unpaid leave (unless otherwise provided in these rules) between the time notice of resignation is given and the employee's last day as a City employee.**

14-51 Retirement

Any employee in the Career Service may **designate his or her resignation as a retirement** when he or she meets the eligibility requirements of the Denver Employees Retirement Plan.

Section 14-55 Death

In the case of a separation caused by the death of an employee, the employee's last day as a City employee shall be the date of death.

Section 14-60 Change in Type of Separation

When additional facts are revealed that substantially alter the basis for the original decision as to type of separation, the type of separation may be changed. The Personnel Director, upon receipt of a written request together with documentation of the reasons for the change, will approve or disapprove the requested change in writing. Only the appointing authority who **authorized** the personnel action ~~for~~ separating the employee, or his **or her** successor shall be authorized to request a change in the type of separation. A copy of the Personnel Director's written approval shall be attached to the personnel action which shall show the type of change and the reason for the change.