

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. 444

A Career Service Board Public Hearing has been scheduled regarding proposed revisions to Career Service Rule 14 **SEPARATION OTHER THAN DISMISSAL** and related rules.

The scheduled time for the public hearing is **THURSDAY, MAY 3, 2012, 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, APRIL 30, 2012.**

If anyone wishes to submit written comments, please submit them

**IN PERSON NO LATER THAN 12:00 NOON ON
MONDAY, APRIL 30, 2012 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, APRIL 30, 2012, 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, APRIL 30, 2012 TO: (720-913-5720)**

**OR BY E-MAIL TO BE RECEIVED NO LATER THAN 12:00 NOON ON
MONDAY, APRIL 30, 2012 TO: Peter.Garritt@denvergov.org**

PLEASE POST ON ALL BULLETIN BOARDS

AS SOON AS POSSIBLE

RULE PROPOSAL 421B

TO: Appointing Authorities, Managers, and Employees

FROM: Nita Mosby Henry, CSA Director

DATE: April 20, 2012

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

THIS PROPOSED REVISION TO THE CAREER SERVICE RULES IS BEING POSTED FOR PUBLIC COMMENT AND HEARING TO BE HELD ON

**THURSDAY, MAY 3, 2012, at 5:00 P.M.
Webb Building Room 4.G.2**

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.

This rule change proposal also contains the following changes:

- **Moves definitions from Rule 1 to pertinent sections of Rule 14.**
- **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.**
- **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 all authority given under Rule 14 (except the authority to sign and submit lay-off plans to the CSA) to subordinate employees. In the case of CSA lay-offs, CSR 14-46 B now provides that 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.**
- **Expands current section concerning separations of employees on employment probation to cover employees who are non-career status, trainees or interns.**
- **Simplifies notice requirements for resignations.**
- **Adds section covering separations caused by an employee's death.**

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

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).~~

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);~~

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 1 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 **only** 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~~ **Separation of** during employment ~~eesment probationary status-~~ **holding non-career, trainee or intern probationary, or employment probationary status;**
 - ~~C~~ **3.** Lay-off;
 - ~~D~~ **4.** Resignation;
 - ~~E~~ **5.** Retirement;
 - ~~F~~ **6.** 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 sign and submit lay-off plans to the Career Service Authority (“CSA”).

Section 14-20 Disqualification

14-23 Procedure

- A.** The appointing authority shall follow the procedures for pre-disciplinary meetings before taking any action on the disqualification. The final notice of disqualification shall contain the same statement of the reason for the disqualification as contained in the pre-disqualification letter.
- B.** 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.**
- D.** 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 **RECRUITMENT.**~~

~~Section 14-30 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 may only be appealed on the grounds of alleged discrimination or when the employee has alleged a 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.**

~~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)~~

14-46 **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 **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 manager responsible for the lay-off unit affected by the lay-off.**
- 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-~~47~~ 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-~~48~~ 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** ~~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.