

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. 445

A Career Service Board Public Hearing has been scheduled regarding proposed revisions to Career Service Rule 11-120 Disability Leave and related rules.

The scheduled time for the public hearing is **THURSDAY, JUNE 7, 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 Debbie Saraceno at (720) 913-5609 no later than 12:00 Noon on **FRIDAY, JUNE 1, 2012.**

If anyone wishes to submit written comments, please submit them

**IN PERSON NO LATER THAN 12:00 NOON ON  
FRIDAY, JUNE 1, 2012 TO:**

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

**BY MAIL TO BE RECEIVED NO LATER THAN 12:00 NOON ON  
FRIDAY, JUNE 1, 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  
FRIDAY, JUNE 1, 2012 TO: (720 913-5720)**

**OR BY E-MAIL TO BE RECEIVED NO LATER THAN 12:00 NOON ON  
FRIDAY, JUNE 1, 2012 TO: [Peter.Garritt@denvergov.org](mailto:Peter.Garritt@denvergov.org)**

**PLEASE POST ON ALL BULLETIN BOARDS**

**AS SOON AS POSSIBLE**

**RULE PROPOSAL 422B**

**TO:** Appointing Authorities, Managers, and Employees  
**FROM:** Nita Mosby Henry, CSA Executive Director  
**DATE:** May 18, 2012  
**SUBJECT:** Proposed revision of Career Service Rule 11-120 Disability Leave and related rules

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

**THURSDAY, June 7, 2012, at 5:00 P.M.  
Webb Building Room 4.G.2**

Here is a summary of the proposed changes to this rule:

- **Divide the rule into two parts; one dealing with disability leave (the first 90 days of a work-related injury, governed by City ordinance), and the other dealing with Workers' Compensation leave (which commences after disability leave ends);**
- **Employees on Workers' Compensation leave can only use paid leave to make up the difference between 80% of their base salary and the amount paid as temporary disability benefits (instead of the ability to use paid leave to pay entire salary regardless of temporary disability benefits as currently permitted in the rule). Employees on disability leave are not permitted to use other paid leave.**
- **Quotations and paraphrases of the Disability Leave Ordinance have been removed from the rule. A copy of the Disability Leave Ordinance will be attached as an appendix to Rule 11.**
- **Agencies will be required to place employees on disability leave or Workers' Compensation leave on FMLA leave at the same time if the requirements of the FMLA are met.**
- **The Rule now explains how employees on Workers' Compensation leave are treated with regard to leave accruals, paid holidays and payment of insurance premiums.**
- **Work absences caused by medical examinations or treatments related to an employee's Workers' Compensation claim will be treated as time worked**

**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.***

Section 11-420 ~~40~~ Disability ***Leave and Workers' Compensation*** Leave

***11-41 Disability Leave***

- A. The City provides paid disability leave amounting to eighty percent (80%) of an employee's gross salary for up to ninety (90) consecutive calendar days from the date of injury for each occupational injury or occupational disease arising out of and within the course and scope of employment with the City (see Disability Leave Ordinance, attached as Appendix A).***
- B. An employee on disability leave shall not be permitted to use other available paid leave concurrently with the disability leave.***

~~11-121 Revised Municipal Code Provisions~~

- ~~A. The Revised Municipal Code provides that under certain conditions and after compliance with certain requirements "...eligible employees shall be granted disability leave with pay for a period not to exceed ninety (90) calendar days."~~
- ~~B. Compensation during disability leave shall be eighty percent (80%) of gross salary.~~

~~11-123 Eligibility for Disability Leave~~

~~An employee shall be considered eligible for disability leave if such employee:~~

- ~~A. Type of Position: Holds a full time or part time position but not an on-call position.~~
- ~~B. Compliance with Ordinance: Has complied with the provisions of Sec. 18-287 of the Revised Municipal Code, 1982 codification, relating to reporting requirements and to examination and emergency treatment by the Employee's Medical clinic.~~
- ~~C. Disability: Is physically or mentally unable to perform the duties of the employee's position or any other position within the City and County of Denver due to injury, occupational disease or accident experienced in the course of employment.~~

~~11-124 Granting of Disability Leave~~

~~Appointing authorities shall grant disability leave to eligible employees in accordance with the following provisions:~~

~~A. Authority for disability leave pay: For absence in excess of three (3) calendar days, allowance of a claim for temporary disability benefits under the provisions of the Workmen's Compensation Act or the Occupational Disease Disability Act shall constitute authority for disability leave pay for a period of ninety (90) calendar days retroactive to the first day of disability.~~

~~B. Notification of injury: Every employee who sustains an injury in the course of his employment shall notify his supervisor within two (2) days of its occurrence, unless:~~

~~1. The employee is physically or mentally unable to do so; or~~

~~2. Someone else reports the accident within the specified time limit; or~~

~~3. The supervisor or person in charge has actual notice of the injury.~~

~~If an employee fails to report an injury, he shall lose one (1) day's disability leave for each day's failure to so report; the number of penalty days established by the representative of the State Compensation Insurance Fund or Division of Labor shall constitute the number of disability leave days lost for late reporting.~~

~~For absences of three (3) calendar days or less and for penalty days deducted from disability leave because of late reporting, the employee may use other paid or unpaid leave if eligible under the terms of these rules.~~

~~C. Reimbursement to City for advances on benefits: Temporary disability benefits due the employee from the Workers Compensation Fund for the duration of the disability leave shall be deposited to the credit of the City.~~

~~D. Required physical examination: Any employee on disability leave may be required to report to Denver General Hospital for periodic physical examinations. Compliance with such requirements shall be a condition for the continuation of an approved disability leave with pay. An employee shall report to Denver General Hospital for a physical examination prior to being returned to work from disability leave.~~

~~E. Effect of reduced or disallowed claims: No disability leave with pay shall be granted if the employee's claim for temporary workers compensation benefits has been disallowed or reduced under the terms of the state laws cited above, except as provided in paragraph 11-124 B. Notification of Injury. In the instance listed above, an employee absent from duty may use other paid or unpaid leave if eligible under the terms of these rules.~~

#### ~~11-125 Expiration of Disability Leave~~

## 11- 42 Workers' Compensation Leave

- A.** An employee who remains unable to return to work continues to be disabled after the disability leave allowed by the Denver Revised Municipal Code expires beyond the maximum disability leave of ninety (90) calendar days may use his accrued PTO, sick leave and vacation leave at full benefits in addition to the temporary disability compensation he receives from the Workmen's Compensation Fund, and is receiving temporary disability benefits under the provisions of the Workers' Compensation Act of Colorado, as amended, Title 8, Articles 40-47, C.R.S. ("the Act"), will be permitted to use Workers' Compensation leave for absences from work resulting from the employee's occupational injury or occupational disease arising out of and within the course and scope of employment with the City, until it is determined that the employee is no longer eligible to receive temporary disability benefits pursuant to the Act.
- B.** Workers' Compensation leave is unpaid leave, except to the extent an employee elects to use available paid leave to make up the difference between eighty percent (80%) of the employee's gross salary and the temporary disability benefits the employee receives under the provisions of the Act.

~~Disability leave shall not be granted beyond the date of mandatory retirement of an employee.~~

## 11-~~422~~ Policy-43 Applicability of Family Medical Leave Act

- A.** The department or agency shall designate an employees' disability leave and/or Workers' Compensation leave as FMLA leave if the requirements of the applicable Career Service and Federal statutes and regulations are met.
- B.** ~~All Career Service employees, except employees holding on-call positions, shall be granted disability leave with pay for each occupational injury or occupational disease incurred in the course of employment, provided that the period of disability exceeds three (3) calendar days. If an employee's disability leave~~ disability leave and/or Workers' Compensation leave is also designated as FMLA leave, the disability leave disability leave and/or Workers' Compensation leave and FMLA leave shall run concurrently with the FMLA leave.

**11-44 Maintenance of Benefits**

**An employee who is absent from work on disability leave or Workers' Compensation leave is:**

- A. Eligible to earn PTO, or sick and vacation leave as provided in section 11-80 of this Rule 11;**
- B. Eligible to receive paid holiday leave for holidays observed during the period of disability and/or Workers' Compensation leave as provided in Rule 10 PAID LEAVE;**
- C. Eligible to have the City continue paying its share of the employee's medical, dental, and life insurance premiums during the period of disability and/or Workers' Compensation leave, so long as the employee continues to pay his or her share of the insurance premiums.**

**11-45 Termination of Disability Leave or Workers' Compensation Leave Eligibility**

- A. Employees who are no longer eligible for temporary benefits under the Act are not eligible to continue receiving disability leave or Workers' Compensation leave.**
- B. If the employee's permanent restrictions prohibit the employee from returning to work full-time and/or full-duty after having reached Maximum Medical Improvement, the appointing authority shall initiate the interactive process as provided in Rule 5 APPOINTMENTS AND STATUS, within twenty (20) days of the expiration of the employee's eligibility for disability leave or Workers' Compensation leave, unless the employee is also on FMLA leave.**

~~11-126 Paid Time Off, Sick and Vacation Leave During Disability Leave~~

~~Employees who are granted disability leave shall continue to accrue PTO, sick and vacation leave credits for the duration of the disability leave.~~

~~11-127 Procedure for Disability Leave~~

~~A personnel action placing the employee on disability leave and its estimated duration shall be submitted to the CSA immediately upon notification of allowance of a claim for temporary disability benefits under the laws cited above. Upon return of the employee to work or expiration of the disability leave, a personnel action returning the employee from leave shall be submitted.~~

## RELATED RULES

### 10-22 Situations Where Approval of PTO Use is not Required

- A.** An employee may use PTO without requesting the approval of the employee's appointing authority when the employee is incapacitated by sickness or injury; for necessary care and attendance during sickness of a member of the employee's immediate family, and for qualifying conditions under the Family and Medical Leave Act ("FMLA"). Such use shall be subject to reporting and investigation requirements set forth in this Rule 10.
- B.** *Absences from work because of authorized medical examinations or treatment related to an occupational injury or occupational disease arising out of and within the course and scope of employment with the City for which the City has admitted liability or has agreed to permit medical treatment while investigating the claim shall be treated as time worked. The employee shall make a reasonable effort to schedule the examination or treatment so as not to unduly disrupt the operations of the department or agency.*

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### 10-33 Using Sick Leave

- A.** 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.
- B.** *Absences from work because of authorized medical examinations or treatment related to an occupational injury or occupational disease arising out of and within the course and scope of employment with the City for which the City has admitted liability or has agreed to permit medical treatment while investigating the claim shall be treated as time worked. The employee shall make a reasonable effort to schedule the examination or treatment so as not to unduly disrupt the operations of the department or agency.*

Section 11-10 Definitions

A. Leave: Any absence during regularly scheduled work hours. The following types of unpaid and extended leave are officially established and shall be in effect unless otherwise provided by ordinance:

1. Military;
- 2. Disability leave and Workers' Compensation leave;**
- ~~3.~~ Leave without pay;
- ~~4.~~ Unauthorized;
4. ~~Disability;~~
5. Parental involvement;
6. Family Medical Leave ("FMLA").

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11-154 Use of FMLA leave

D. FMLA leave is unpaid leave, unless an employee elects to substitute ~~PTO, sick leave, donated leave, vacation leave or other accrued~~ **available** paid leave for unpaid FMLA leave, **subject to the limitations in this Rule 11 on the use of paid leave while on disability leave or Workers' Compensation leave.** ~~PTO, sick leave, donated leave, vacation leave or other accrued paid leave substituted for unpaid FMLA leave shall be counted against available FMLA leave.~~

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11-159 Return from FMLA Leave

E. ~~When an employee returning from FMLA leave is not able to perform the essential functions of the position to which the employee is returned, the appointing authority may disqualify the employee in accordance with Rule 14-20.~~ **If the employee is unable to return to work at the conclusion of FMLA leave, the appointing authority shall initiate the interactive process as provided in Rule 5 APPOINTMENTS AND STATUS, within twenty (20) days of the expiration of the employee's FMLA leave, unless the employee is also on disability leave or Workers' Compensation leave.**



**APPENDIX 11.A.  
DIVISION 4 – DISABILITY LEAVE  
DENVER REVISED MUNICIPAL CODE**

**Sec. 18-151. Definitions.**

The following words and phrases, when used in this division, shall have the meanings respectively ascribed to them:

- (1) *Disability* shall mean physical inability of an eligible employee or appointed Charter officer to perform the duties of the position or any other position within or outside the city due to injury or occupational disease incurred in the course of employment with the city.
- (2) *Disability leave* shall mean the difference between the employee's temporary disability rate as established in the Workers' Compensation Act of Colorado, Title 8, Articles 40 - 47, C.R.S., as amended, ("the Act") and eighty (80) percent of his/her gross salary.
- (3) *Eligible employees and charter officers* shall mean any persons occupying either full-time or part-time positions in the employ of the city or any of the departments thereof, and officers as defined in section 9.2.1 of the charter, with the exception of the following:
  - a. Members of the classified service of the police and fire departments;
  - b. Certain trainees as defined in the career service rules;
  - c. Persons occupying or employed in on-call, temporary, seasonal, or contract positions, or positions in which the incumbent is paid according to the community rate schedule; and
  - d. Employees in the deputy sheriff classifications.
- (5) *Temporary disability benefits* shall mean the disability indemnity payable as wages to an eligible employee or appointed Charter officer under the provisions of the Workers' Compensation Act for the duration of the temporary total or partial disability.

**Sec. 18-152. Disability leave allowance.**

Subject to the following provisions, eligible employees and appointed Charter officers shall be granted disability leave with pay for a period not to exceed ninety (90) consecutive calendar days for each occupational injury or occupational disease:

- (1) Disability leave shall begin with the first day of disability provided, however, that disability leave shall be granted only if:
  - a. A claim for temporary disability benefits has been allowed without a penalty for failure to use a safety device, failure to follow a safety rule, injury because of intoxication, or other penalty as may be provided by law; and
  - b. The disability continues for more than three (3) shift periods.
- (2) Every employee who sustains an injury shall immediately notify their supervisor of the injury and shall provide written notice to the supervisor within four (4) days of its occurrence, unless the employee shall be physically or mentally unable to do so, or unless the foreman, superintendent, manager or other person in charge shall have actual notice of the injury. If the employee shall fail to report the injury, the employee shall lose one (1) day's disability leave for each day's failure to so report. If anyone shall report the accident for the injured employee within the time above specified, then the injured employee shall be relieved from reporting the accident.
- (3) If the disability extends beyond the date of mandatory retirement of an eligible employee or appointed Charter officer, such date shall terminate the disability leave with pay.

**Sec. 18-153. Career service rules.**

The career service rules shall include provisions implementing this division relating to disability leave.

This Appendix is provided for informational purposes and is not considered a part of the Rules.