

Career Service Rule Section 2-20 B. - Adoption, Amendment or Repeal of Career Service Rules. When the Board or the OHR Executive 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. 511

A Career Service Board Public Hearing has been scheduled regarding the proposed revision to Career Service Rule 5 **APPOINTMENTS AND STATUS** and related rules.

The scheduled time for the public hearing is **THURSDAY, NOVEMBER 5, 2015, at 5:00 P.M.**, in **Room, 4.G.2.**, Webb Municipal Building, 201 West Colfax Avenue.

If anyone wishes to submit written comments or talk to OHR staff regarding this notice, please contact:

Pete Garritt
HR Supervisor
Office of Human Resources
201 West Colfax, 4th Floor
Department 412
Denver, Colorado 80202

(720) 913-5671

Peter.Garritt@denvergov.org

Comments regarding this notice should be submitted no later than **12:00 noon on MONDAY, NOVEMBER 2, 2015.**

If anyone wishes to address the Board regarding this notice please contact Alisha Gronniger at (720) 913-5650 or at Alisha.Gronniger@denvergov.org no later than **12:00 noon on MONDAY, NOVEMBER 2, 2015** to get on the agenda.

PLEASE POST ON ALL BULLETIN BOARDS

AS SOON AS POSSIBLE

RULE PROPOSAL 442B

TO: Appointing Authorities, Managers, and Employees
FROM: Karen Niparko, OHR Executive Director
DATE: October 23, 2015
SUBJECT: Proposed revision of Career Service Rule 5 APPOINTMENTS AND STATUS and related rules

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

**THURSDAY, November 5, 2015, at 5:00 P.M.
Webb Building Room 4.G.2**

Here is a summary of this proposed rule change:

PROMOTIONAL PROBATION: Between 2009 and 2014, there were 2,099 promotions of Career Service employees. During this same period of time, 60 Career Service employees (2.86% of those promoted) were returned from promotional probation to their former classifications in their former agencies.

While most returns occurred within the 6 month promotional probation period, some occurred after this period has been extended for another six months, and some have even occurred over a year after the original promotion. Even though 60 employees over a 5 year period may not seem like much, these returns have the potential to cause a major disruption to the agency forced to take a promoting employee back, as the employee is guaranteed a position in the classification he or she was in, in the agency the employee was in, prior to the promotion. The agency receiving a returning employee must scramble to find a vacant position to place the employee in. In tight budget times, there may not be a vacancy, which requires the agency to either leave the employee's former position open until he or she passes probation, or terminate the employee hired to take the promoted employee's place.

As a result, OHR is proposing a revision to Rule 5 that would eliminate promotional probation. If this revision is approved, employees who promote to other City jobs would not serve promotional probation and could not be returned to their former jobs without the consent of the employee and the employee's former agency.

TRANSFER TRANSITION: OHR is also proposing to do away with the transfer transition rules which allow employees who transfer to be returned to their former jobs for 90 days after the transfer. Between 2009 and 2014, there have been 187 transfers within the Career Service. While the City doesn't track returns during this transfer transition period separately, there were seven employees who transferred twice within a three month window (which could indicate a return from a transfer). This would be a return rate of 3.7%.

IMPACT:

- Performance deficiencies of employees who promote or transfer would have to be addressed through performance management and the normal disciplinary process.
- Employees who are hired into or promoted to supervisory or managerial positions will still be expected to complete the required supervisory training, but completion of required courses would no longer be tied to passing promotional probation since it would no longer exist.
- Employees who are serving promotional probation or in a transfer transition period on the effective date of the rule change would be grandfathered so that the provisions of the old rule would continue to apply to them until they complete probation or the transfer transition period. Employees promoted or transferred after the effective date would be covered by the new rule.

OTHER PROPOSED CHANGES:

- Probation
 - Probation extensions no longer require OHR director approval, but notice must be provided to OHR and the employee before the end of probation date.
 - The proposal clarifies language around ending probation so that it is consistent with the concept that employees on employment probation are at will and may be separated for any reason. The proposal will eliminate the confusing 2 day notice requirement in Rule 5.
 - Any appointment during employment probation starts employment probation over again.
 - Minimum probation for certain dispatcher classifications is now 9 months (and can be extended for another 3 months).
 - Re-name supervisory training classes.
 - Employees who have served in a supervisory or managerial position in the last three years are not required to re-take required managerial training.
 - Rule 6 eliminated and parts merged into Rule 5.
- This proposal eliminates re-assignment appointments, but will broaden the definition of a transfer appointment to cover re-assignments.
- The new rule will specifically require employees who demote or transfer to meet the minimum qualifications of the new classification.
- ADA
 - Remove ADA rules that are just a re-statement of Federal definitions
 - Definition of disability.
 - Definition of qualified individual with a disability.
 - Definition of qualification standards and direct threat.

- Creates at-will status, which includes on-calls, paid trainees, paid interns, and employees on employment probation.
- Terminology changes
 - Non-career status to on-call
 - Trainee or intern probationary status to paid trainee or paid intern status
 - OHR designee to ADA Coordinator.
- Re-organized for better flow and clarity.
- Adds purpose statement.
- Charter and ordinance provisions contained in Rule 5 deleted.

Attached below you will find:

- **Rule 5 revisions – clean version**
- **Related rule revisions**
- **Deleted Rule 6**
- **Rule 5 revisions – strikethrough version**

If you would like to schedule a meeting with a member of the OHR 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 5
APPOINTMENTS AND STATUS

Purpose statement:

The purpose of this rule is to identify:

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

Section 5-10 Appointment**s**

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

5-11 Appointments of Applicants Who Are Not in the Career Service
[MOVED FROM 5-71]

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

- C. Re-employment appointment: An appointment of a former employee to a position in the classification in which the employee was previously employed within the preceding five (5) years, or to a successor classification; or to any classification for which the employee is qualified, with the same or lower range minimum than the former classification, subject to the following conditions:
1. Former employees whose separation was the result of a dismissal are not eligible for re-employment;
 2. An appointment that is a re-instatement is not a re-employment appointment;
 3. In order to determine eligibility for re-employment into a successor classification, the OHR Executive Director may, on a case-by-case basis, review the duties previously performed as well as classification and pay; and
 4. A former employee who is re-employed shall serve in an employment probationary status.

5-12 Appointments of Employees Who Are in the Career Service

- A. Promotional appointment: An appointment of an employee to a position in a classification in which the range minimum of the pay range for the new classification is higher than the range minimum of the pay range for the employee's previous classification.
[MOVED FROM 5-72 A]
- B. Promotional re-instatement appointment: An appointment of an employee who has been demoted in lieu of lay-off which is made as a result of referral from a re-instatement list in accordance with Rule 3 **RECRUITMENT**.
[MOVED FROM 5-72 B]
- C. Re-promotional appointments: A promotion of an employee to a position in a higher classification in which the employee was previously employed within the preceding five (5) years, or to a successor classification; or to any classification for which the employee is qualified, with the same or intervening range minimum as the previous classification subject to the following conditions:
1. Appointments that are promotional re-instatements are not re-promotions; and
 2. In order to determine eligibility for re-promotion into a successor classification, the OHR Executive Director may, on a case-by-case basis, review the duties previously performed as well as classification and pay; ~~and~~
- [MOVED FROM 5-72 C]**

- D. Transfer appointment: An appointment of an employee from a position in one classification to a different position in the same classification or a classification with the same range minimum for which the employee meets the minimum qualifications.

[MOVED FROM 5-72 D]

1. An employee may be given a transfer appointment between departments or agencies provided that the employee and the receiving appointing authority consent.

[MOVED FROM 5-73 A]

2. Unless otherwise agreed upon, a transfer appointment between departments or agencies becomes effective thirty (30) calendar days after the releasing department or agency is notified that the employee and the receiving department or agency have both consented to the transfer. However, the time may be shortened if the effective date is set jointly by the releasing appointing authority and the receiving appointing authority.

[MOVED FROM 5-73 B]

- E. Demotion appointment: An appointment of an employee to a position in a classification for which the employee meets the minimum qualifications and in which the range minimum of the pay range of the new classification is lower than the range minimum of the pay range of the classification previously held.

[MOVED FROM 5-72 E]

1. Reasons for demotion: An appointing authority may give a demotion appointment in the following instances:

a. Voluntary:

- i. When an employee requests the demotion, or accepts a voluntary demotion in lieu of lay-off as defined in Rule 14 **SEPARATION OTHER THAN DISMISSAL**; or

ii. When an employee accepts the offer of a position with lower pay and benefits as a reasonable accommodation in the ADA Interactive Process.

b. In lieu of lay-off: When a position is to be abolished, in accordance with Rule 14 **SEPARATION OTHER THAN DISMISSAL**.

c. Involuntary:

- i. Through disciplinary action in accordance with Rule 16 DISCIPLINE AND DISMISSAL; or**
- ii. In lieu of separation during employment probation in accordance with this Rule 5.**

2. Notice to employee: Before a demotion appointment is effective, the following documentation shall be provided to the employee and submitted to the OHR:

- a. Written consent of the employee to a voluntary demotion; or**
- b. A written notice of demotion in lieu of lay-off as required by Rule 14 SEPARATION OTHER THAN DISMISSAL; or**
- c. A written notice of disciplinary demotion as required by Rule 16 DISCIPLINE AND DISMISSAL; or**
- d. A written notice of demotion in lieu of separation during employment probation, or during paid trainee or paid intern status.**

[MOVED FROM 5-74]

Section 5-20 Types of Positions

5-21 General

All positions in the Career Service shall be identified by the following two (2) characteristics:

- A. Duration; and
- B. Number of hours worked.

5-22 Duration

The duration of each position in the Career Service shall be determined by one of the following definitions:

- A. Unlimited positions: A position which has no specified ending date.
- B. Limited position: A position which has a specified ending date. Examples are positions funded by grants, positions created to meet a special project or seasonal need, positions created to replace an employee on extended leave, positions created to provide program continuity on an acting basis while recruitment is underway to fill a vacant position, and similar positions created with a time limitation for comparable specific purposes.

5-23 Number of Hours Worked

- A. Identification of positions by category: Each position in the Career Service shall be identified by one of the following categories **based on work schedule**:
 - 1. Full time;
 - 2. Part time;
 - 3. On call.
- B. Criteria of categories:
 - 1. Full time: A full time position is one in which an employee is scheduled to work forty (40) hours per week.
 - 2. Part time: A part time position is one in which an employee is scheduled to work less than forty (40) hours per week.
 - 3. On call: An on call position is one in which the employee works as needed. On-call positions may have routine or variable work patterns and are generally filled to accommodate seasonal or short term activities in various city agencies. Ushers are an example. Since Election Judges are not in the Career Service, they are not considered to be on-call Career Service employees.

Section 5-30 Employee Status

Every Career Service employee shall hold at least one of the following employee status identifications:

- A. At-will status, which is made up of:
 - 1. On-call status;
 - 2. Paid trainee or paid intern status; and
 - 3. Employment probationary status.
- B. Career status
- C. Senior Command Staff status.

5-31 At-will Status

At-will employees:

- A. May be separated at any time; and
- B. May not appeal any decision relating to his or her employment, including separation, except on the grounds of alleged discrimination or violation of the City's "Whistleblower Protection" ordinance.

5-32 On-call status

Every person who is appointed to an on-call position shall hold on-call status for the duration of the appointment.

[MOVED FROM 5-42 D]

5-33 Paid Trainee or Paid Intern Status

- A.** Every person who is appointed to a trainee or intern position shall hold **paid** trainee or **paid** intern status for the duration of the appointment, as required for the applicable trainee or intern classification specification. The Public Safety Cadet classification is considered a trainee classification under these rules.
- B.** **The duration of paid trainee and paid intern status is set by the applicable classification specification.**
- C.** **End of paid training or paid internship period:**
1. The department or agency shall report to the OHR, in writing, at the conclusion of **paid** trainee or **paid** intern **status**, whether the trainee or intern has successfully completed the **training or internship** period by acquiring the competencies, knowledge, skills and abilities necessary to satisfactorily perform the duties of the position.
 2. An appointing authority may request, in writing to the OHR Executive Director, that the trainee or intern be deemed to have successfully completed the **training or internship** period prior to the employee's completion of the **training or internship** period.
 3. Upon a determination by the OHR that the trainee or intern has successfully completed the **training or internship** period, the department or agency may promote the trainee or intern into the position the trainee or intern was being trained to perform.

5-34 Employment Probationary Status

Every person when first appointed or re-employed to a full time or part time, limited or unlimited Career Service position, that is not a trainee or intern position, shall hold employment probationary status for the probation~~ary~~ period **established by this Rule 5.**

- A.** **An employment p**robnatary period~~s~~ shall be regarded as **an** integral part~~s~~ of the examination process. **It** shall be utilized for closely observing the employee's work, assisting the employee to adjust to the duties and responsibilities of the position, and to separate or demote an employee **as provided in this rule.**

B. Duration of **Employment** Probation

Except **as provided below**, the minimum period of employment probation shall be six (6) months.

- 1.** The minimum period of **employment** probation for **employees in** Deputy Sheriff **classifications** shall be twelve (12) months.
- 2.** **The minimum period of employment probation for employees in the Aviation Emergency Dispatcher, Emergency Communications Operator and Police Dispatcher classifications shall be nine (9) months.**

C. **An employee's end of probation date shall be calculated by adding the required amount of months (six, nine or twelve months) to the employee's hire date and subtracting a day.**

D. **Required training:**

- 1.** All Career Service employees serving employment probation are required to complete training programs during their probationary period that address the following topics:
 - a.** New employee orientation;
 - b.** Ethics and accountability;
 - c.** Preventing harassment **and** workplace violence; and
 - d.** Any other training required by the DRMC and applicable Executive Orders.
- 2.** Employees appointed **or re-allocated** to positions **with supervisory or managerial duties** are required to complete **new manager** training prior to the completion of **employment** probation that addresses the following topics:
 - a.** The Performance Enhancement Program and Performance Enhancement Program Reports;
 - b.** **Preventing harassment and workplace violence (for managers)**; and
 - c.** Employment laws, **the** Career Service Rules, **and discipline**.

Employees who are serving employment probation as a result of being appointed to a position with supervisory or managerial duties are required to complete the required supervisory training during their probationary period.

- 3.** Employees who have completed the required training or who have held a position within the Career Service with supervisory or managerial duties within the three years prior to the effective date of appointment, promotion, or the submittal of a the re-allocation request are not required to take the training again.
- 4.** Departments or agencies may conduct training to fulfill the requirements established above, with the approval of the OHR Executive Director. Departments or agencies that conduct such training shall provide the OHR with documentation evidencing the completion of the required training. Such documentation shall include the course title, the names of employees who have completed the training, and the date of completion.
- 5.** An employee serving employment probation may be separated in accordance with Rule 16 **DISCIPLINE AND DISMISSAL**, or demoted to a position with less responsibility in accordance with this Rule 5. An employee who is appointed to another position during employment probation shall begin a new employment probationary period.

E. Extension of employment probation:

1. Appointing authorities may extend an employee's employment probation for a period not to exceed an additional six (6) months after the original end of probation date. Notice of the extension shall be given to the employee and received by the OHR prior to the end of the employee's end of probation date. Employment probation for employees in the Aviation Emergency Dispatcher, Emergency Communications Operator and Police Dispatcher classifications may only be extended for a period not to exceed an additional three (3) months after the original end of probation date.
2. Employees serving employment probation who have not completed training programs required by this rule as a condition of passing probation will have their probationary periods automatically extended until the training programs have been completed. City departments and agencies are expected to make sure their employees meet the training requirements of this rule. This paragraph shall not affect a department or agency's ability to end probation at any time.

F. End of **Employment** Probation Notification

- 1.** **Supervisors are encouraged to evaluate employee performance and discuss it with the employee during the employment probationary period so that employees are fully informed of their progress.**
- 2.** **An employee's successful completion of an employment** probationary period shall be documented by the completion of a notification form prepared by the employing **department or** agency in a format authorized by the OHR.
- 3.**
 - a.** If **a department or agency is going to separate an** employee **during employment** probation, a **written notice of separation or dismissal** shall substitute for the notification form.
 - b.** **Such notice shall be given to the employee on or before the employee's last day of employment probation and last day as a City employee.**
 - c.** An employee who has completed the required **employment** probationary period and the training programs required by **this rule** shall attain career status unless **a written notice of the extension of the employee's employment probation, or of the employee's separation or dismissal has been given to the employee and** has been received at the OHR prior to the end of the **employment** probationary period.

5-35 Career Status

A. Employees attain career status through:

- 1.** Successful completion of the **employment** probationary period, and the training programs required by Rule 6 **EMPLOYEE TRAINING AND ORGANIZATIONAL DEVELOPMENT**; **or**
- 2.** Re-instatement after lay-off.

B. An employee in career status:

- 1.** May **only** be disciplined or dismissed ~~only~~ for cause, in accordance with Rule 16, **DISCIPLINE AND DISMISSAL**;
- 2.** Is entitled to lay-off protection specified in Rule 14 **SEPARATION OTHER THAN DISMISSAL**, except for employees-**in** limited positions; **and**
- 3.** May have continuous service credits earned prior to lay-off restored if such employee is re-instated or re-employed while still on the re-instatement list.

5-36 Senior Command Staff Status

A. Every employee in a position in a classification in the Deputy Sheriff pay schedule who is appointed to a position in the Deputy Sheriff Major or Deputy Sheriff Division Chief classifications after May 31, 2014 shall hold Senior Command Staff status for the duration of the appointment and shall not serve a probationary period. However, such employee shall retain career status attained in his or her former classification and be entitled to return to a position in that classification when the employee's Senior Command Staff status ends.

B. An employee in Senior Command Staff status retains the rights, privileges, and benefits the employee had by virtue of his or her status prior to the appointment, except that the employee:

1. May be returned to a position in his or her former classification at any time. Upon returning, the employee shall receive the same rate of pay he or she was receiving prior to his or her appointment to a position in the Deputy Sheriff Major or Deputy Sheriff Division Chief classifications (Senior Command Staff position), after taking into account the effect of any pay changes or classification changes to the employee's former position and classification that occurred during the period between the appointment and the return; and
2. May not grieve or appeal his or her removal from a Senior Command Staff position;

Employees who were appointed to Senior Command Staff positions prior to June 1, 2014 shall retain career status attained in that position and shall not be considered to have Senior Command Staff status.

Section 5-40 Medical Examinations Following a Conditional Offer of Employment
[MOVED FROM 5-20]

5-41 Medical Groups

All classifications in the Career Service shall be allocated to a medical group by the OHR Executive Director. The medical groups are as follows:

- A. Heavy (H): Positions which demand a very high degree of physical fitness.
- B. Medium (M): Positions which demand considerable labor and exertion or in which safety considerations mandate a high degree of physical fitness.
- C. Sedentary (S): Positions which require little physical labor or exertion.

5-42 Adoption of Medical Standards

Medical criteria for each medical group or for individual classifications within a medical group shall be proposed by the Center for Occupational Safety and Health at Denver Health or by another designated provider (as defined in Chapter 18, Article VII of the Denver Revised Municipal Code – Treatment of Occupational Injury or Disease), if selected by the appointing authority. Approval of the proposed medical criteria shall be the responsibility of the OHR Executive Director. Medical criteria must be job-related and consistent with business necessity. Medical criteria shall be used as a guide in determining an applicant's ability to perform the essential physical functions of a position either with or without reasonable accommodations.

5-43 Medical Examinations

- A. Applicants who are offered positions in a classification in group H or M are required to submit to a medical examination after receiving an offer of employment conditioned on the results of the medical examination. The examination shall be administered by one of the City's designated providers (as defined in the previous subsection). The examination shall be completed after the conditional offer of employment has been given to the applicant and before the first day of work.
- B. Applicants who are offered positions in a classification in group S are not required to submit to a post-employment offer medical examination unless the position has other assigned duties that demand a high degree of physical fitness (such as operating snow removal equipment). The determination of whether a conditional offer of employment and a post-employment offer medical examination is required and shall be based on the physical requirements of the position.
- C. If it is determined that the applicant is unable to perform the essential functions of the position with or without reasonable accommodations, the offer of employment shall be rescinded.

Section 5-50 Dual Incumbency

Subject to approval by the Budget and Management Office, *or its designee*, an employee may be appointed to occupy a position currently occupied by another employee for a period not to exceed three (3) months. If it is desired to continue such an arrangement for more than three months, it shall be done by the creation of a limited position rather than dual incumbency in a single position.

Section 5-60 Dual Employment

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

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

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

5-71 Policy

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

5-72 New Hires

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

5-73 Penalty

In accordance with the requirements of *Federal immigration law*, any employee failing to comply with *this* sections *of Rule 5 APPOINTMENTS AND STATUS* shall be separated for the good of the service.

Section 5-80 The ADA Interactive Process

5-81 Policy

- A.** It is the policy of the City to provide equal employment opportunity to individuals with disabilities. This rule is intended to comply with and be interpreted consistently with the Americans with Disabilities Act of 1990 ("ADA"), as amended. In case of a conflict between this rule and the ADA (and its corresponding regulations), the ADA will control. Additional information about the ADA may be found on the Equal Employment Opportunity Commission's website, www.eeoc.gov.

[MOVED FROM 5-84]

- B.** No appointing authority, official, supervisor or employee shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, or any terms, conditions, or privileges of employment.

[MOVED FROM 5-84.A]

5-82 ADA Definitions

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

5-83 Interactive Process (IAP)

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

[MOVED FROM 5-84 B]

A. The City shall initiate an IAP when:

1. An employee provides notice that the employee needs a reasonable accommodation to perform the essential functions of the employee's position; or

[MOVED FROM 5-84 E.1]

2. The employee's department or agency has actual or constructive notice that an employee may have a disability for which the employee needs reasonable accommodation.

[MOVED FROM 5-84 E.1]

B. The **IAP** shall be a flexible, informal process that involves the department or agency, the employee and the **ADA Coordinator, and requires the good faith participation of all parties. The ADA Coordinator may terminate the IAP if the employee fails to cooperate in the process.**

[MOVED FROM 5-84 E.1]

C. The purpose of the **IAP** shall be to determine if:

- 1.** **The employee has a disability** within the meaning of the ADA;
- 2.** **If so, whether the employee needs a reasonable accommodation to perform the essential duties of his or her job, or another job;** and
- 3.** If so, whether the employee can be reasonably accommodated.

[MOVED FROM 5-84 E.1]

D. In **order to** make **this** determination, the **ADA Coordinator** may request and review medical records and other documentation in the possession, custody, or control of the employee ~~'s or his or her~~ health care providers. The **ADA Coordinator** may **also** obtain an independent medical evaluation for the purpose of gathering information needed to make this determination. Such examinations and evaluations shall be reasonable and paid for **by** the department or agency where the employee is presently employed.

[MOVED FROM 5-84 E.2]

E. If the employee is determined to **have a disability** as defined in **the ADA**, the **ADA Coordinator**, department or agency, and the employee shall endeavor to identify any reasonable accommodations the employee may need to **be able to** perform the essential functions of his or her position. The preferred option always shall be a reasonable accommodation that allows the employee to remain in his or her existing job.

[MOVED FROM 5-84 E.4]

F. If the employee is determined not to **have a disability** as defined in **the ADA, or it is determined that the employee cannot be reasonably accommodated, the ADA Coordinator will end the IAP and** disqualification proceedings may be initiated **by the employee's department or agency** if the employee **remains** unable to perform the essential functions of **his or her** position.

[MOVED FROM 5-84 E.3]

5-84 Re-assignment:

A. 1. If **the ADA Coordinator** determines **s** that an employee **with a disability** cannot be reasonably accommodated in his or her **current** position; the employee expresses an interest in remaining employed with the City; **and the employee's restrictions allow the employee to be reasonably accommodated in other positions,** the **ADA Coordinator**, shall explore re-assignment to a vacant position as a possible reasonable accommodation.

[MOVED FROM 5-84 F.1]

2. *This determination shall be communicated in writing to the employee as soon as possible after it has been made.*
3. *The ADA Coordinator shall look for positions that are vacant and become vacant during the three (3) months immediately following this written communication.*
[MOVED FROM 5-84 F.2, p. 4 & F.9]
4. *The ADA Coordinator shall terminate the IAP before the end of the three-month period if the employee withdraws his or her request for re-assignment, or if the employee accepts an IAP re-assignment.*
[MOVED FROM 5-84 F.2, PARAGRAPH 4]

B. Re-assignment is not available:

1. To a position that constitutes a promotion. *If the employee originally took a demotion as an ADA re-assignment, the ADA Coordinator may consider positions above the employee's current pay grade if the employee is eligible for re-promotion (as defined in this Rule 5) to that position and is able to perform the essential functions of that position with or without accommodations.* [MOVED FROM 5-84 F.4]
This does not preclude an employee from applying for promotions within the Career Service;
[MOVED FROM 5-84 F.7]
2. To job applicants who are not currently City employees.
[MOVED FROM 5-84 F.8]

- C.
1. The ADA Coordinator's priority is to identify vacant positions that are equivalent to the employee's current position in terms of pay and benefits, first in the employee's department or agency, and then in other departments or agencyies.
[MOVED FROM 5-84 F.2, p. 2]
 2. If no equivalent positions exist, the ADA Coordinator's next priority is to identify vacant positions of lower pay and benefits, first in the employee's department or agency, and then in other departments or agencyies.
[MOVED FROM 5-84 F.2, p. 2]
 3. If no vacant positions become available during the three-month re-assignment period, the ADA Coordinator shall terminate the IAP and disqualification proceedings may be initiated by the employee's department or agency.
[MOVED FROM 5-84 F.2, p. 2]

- D.**
1. The **ADA Coordinator** shall analyze the employee's specific experience, skills and background, and the specific job duties of the vacant position. **The employee does not need to be the best-qualified individual for the position in order to be re-assigned to it.**
[MOVED FROM 5-84 F.3]
 2. The **ADA Coordinator** shall provide the employee **with information about all vacancies for which the employee:**
 - a. **Meets the minimum education, experience and licensing or certification requirements; and**
 - b. **Is able to perform the essential functions with or without accommodations.**
[MOVED FROM 5-84 F.2, p. 2]
 3. The employee may express his or her preference regarding the selection of a re-assignment position. However, the **ADA Coordinator** is free to choose the re-assignment position to be offered to the employee.
[MOVED FROM 5-84 F.2, p. 2]
- E.** An employee **with a disability** may decline a re-assignment **appointment that is a demotion** and request **that** the **ADA Coordinator** continue looking for vacant positions within the three-month time period. However, if an employee declines an offer of a **transfer to a** comparable position in terms of salary and benefits, the **ADA Coordinator shall terminate the IAP** and disqualification proceedings may be initiated **by the employee's department or agency.**
[MOVED FROM 5-84 F.2, p. 5]
- F.** A department or agency to which an employee **with a disability** is being re-assigned is required to cooperate with the re-assignment process coordinated by the **ADA Coordinator and accept the re-assignment of that employee through the IAP. However, the department or agency** may file a request to the OHR Executive Director to review the re-assignment placement within five (5) calendar days of the re-assignment notice if the department or agency reasonably believes that the employee will not be able to perform the essential functions of the position with or without reasonable accommodation.
[MOVED FROM 5-84 F.2, p. 2]
- G.** If an employee is re-assigned to either an equivalent or demotion position, the employee shall continue to receive the pay rate he or she earned in the former position unless this exceeds the range maximum of the pay range of the new classification, in which case the employee shall receive the range maximum of the pay range of the new classification.
[MOVED FROM 5-84 F.13]

- H.** **1.** The department or agency shall take all necessary steps to train the re-assigned employee in the duties of the position re-assigned, as it would do with any new employee.
[MOVED FROM 5-84 F.10]
- 2.** **Re-assigned** employees shall be provided any reasonable accommodation necessary for the employees to perform the essential functions of the **new** position.
[MOVED FROM 5-84 F.2, p. 3]
- I.** **1.** If an employee **with a disability** is re-assigned to a vacant position and the department or agency subsequently determines that the employee **with a disability** is unable to perform the essential functions of the position, with or without reasonable accommodation, the **IAP** will be resumed from the beginning.
[MOVED FROM 5-84 F.4]
- 2.** The **IAP** need not be resumed if the employee has performance problems in the position that are unrelated to his or her disability, or if the employee is dismissed as a corrective measure for misconduct.
[MOVED FROM 5-84 F.4]

5-85 Re-assignment of Classified Service employees

[MOVED FROM 5-84 F.12]

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

5-86 ADA Leave
[MOVED FROM 5-84 G]

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

5-87 Retaliation and Coercion:
[MOVED FROM 5-84 H]

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

5-88 Confidentiality and Record Keeping
[MOVED FROM 5-84 I]

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

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

RULE 1 DEFINITIONS

Career status:

~~The status of a Career Service employee who has satisfactorily completed an employment probationary period or who has been reinstated after lay off.~~

Disabled individual:

~~An individual who (1) has a physical or mental impairment which substantially limits one or more major life functions; or (2) has a record of such impairment; or (3) is regarded as having such an impairment; or (4) has begun or successfully completed a supervised drug rehabilitation program and is no longer engaged in the illegal use of drugs (Effective January 1, 1993; Rule Revision Memo 160B).~~

Employment appointment:

~~One which is made as the result of referral from an employment list (Effective January 20, 2012; Rule Revision Memo 57C).~~

Employment probationary status:

~~The initial status of an employee receiving an employment appointment or a re-employment appointment.~~

Full time position:

~~One in which the employee is scheduled to work forty (40) hours per week or is scheduled to work eighty (80) hours in two (2) weeks under an authorized special work schedule (Effective September 18, 1980; Rule Revision Memo 127A).~~

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~~ **on-call** status positions.

Limited position:

~~One which has a specified ending date (Effective September 18, 1980; Rule Revision Memo 127A).~~

Non-career status:

~~The status of an employee who is appointed to an on-call position. Non-career status employees do not serve a probationary period (Effective June 8, 2007; Rule Revision Memo 19C).~~

On-call position:

~~A position in which the incumbent works as needed. On-call positions may have routine or variable work patterns and are generally filled to accommodate seasonal or short term activities in various city agencies (Effective June 8, 2007; Rule Revision Memo 19C).~~

~~Part-time position:~~

~~One in which an employee is scheduled to work less than forty (40) hours per week (Effective September 18, 1980; Rule Revision Memo 127A).~~

~~Probationary period:~~

~~A period of time following employment appointment, promotional appointment, or re-employment which is a work test period for the employee, and during which the employee is on a trial basis (Effective September 18, 1980; Rule Revision Memo 127A).~~

~~Promotional probationary status:~~

~~The initial status of an employee receiving a promotional appointment (Effective September 18, 1980; Rule Revision Memo 127A).~~

~~Re-assignment:~~

~~The change of duties of an employee in a position in a class or the movement of an employee from a position in the same class within the same agency or within consolidated appropriation accounts.~~

~~Return from promotional probation:~~

~~Change of a career status employee serving promotional probation to a position in the class from which promoted within the agency from which promoted (Effective December 3, 1981; Rule Revision Memo 25B).~~

~~Unlimited position:~~

~~One which has no specified ending date (Effective September 18, 1980; Rule Revision Memo 127A).~~

3-34 How Assessments are Given

B. Accommodation for Disabled Candidates:

1. The OHR will provide reasonable accommodations in the assessment process, upon request, for candidates who are ~~qualified individuals with a disability~~ **disabled** under the Americans with Disabilities Act.

Section 3-40 Referral

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

- A. Career Service employees who are eligible for re-promotion, transfer, **or** demotion ~~or re-assignment~~ appointments, or former employees who are eligible for re-employment, as defined in Rule 5 **APPOINTMENTS AND STATUS**.
- B. City employees who are eligible for **an ADA** re-assignment under Rule 5-84, ~~Reasonable Accommodations for Individuals with Disabilities Policy~~ **APPOINTMENTS AND STATUS**.
- C. **Paid** trainees and paid interns who have successfully completed the train~~ing~~**ee** or intern ~~probationary~~ **ship** period as provided in Rule 5 **APPOINTMENTS AND STATUS** may be promoted into the position the trainee or intern was being trained to perform.

3-41 Re-instatement List

- A. Employees or former employees shall be placed on the re-instatement list for the classification from which they have:
 2. Transferred ~~or re-assigned~~ in lieu of lay-off when the employee has been moved from an unlimited position to a limited or on-call position, or from a full-time position to a part-time position;

Section 9-30 Changes in Classification and Pay
~~(Revised October 17, 2010; Rule Revision Memo 47C)~~

A change in an employee's classification may occur through promotion, transfer, demotion, ~~return from promotional probation~~, re-allocation, or **promotional** re-instatement.

~~9-34 Return from Promotional Probation~~

~~When an employee is returned from promotional probation, the employee shall receive the same pay the employee was receiving before the promotion. However, this amount shall be adjusted to take into account the effect of any pay changes (such as a merit increase) or classification changes to the employee's former classification that occurred during the period after the promotion and before the return from promotional probation.~~

9-91 Policy

- A. In accordance with the FLSA, all work performed in excess of forty (40) hours per week by non-exempt employees shall be designated overtime work for the purposes of compensation, subject to the following exceptions:
1. ~~Non-career~~ **On-call** employees working for seasonal recreational establishments that do not operate for more than seven months in any calendar year shall be exempt from overtime pay and shall be paid the straight time hourly rate for all hours worked in a work week, including all hours worked in excess of forty (40) hours per week.
 2. ~~Non-career~~ **On-call** employees whose rates of pay are set by the community rate schedule established by ordinance shall be paid overtime according to that schedule. If the community rate schedule makes no provisions for overtime, such employees shall be paid overtime in accordance with section 9-100.

10-65 Training Leave

- C. Appointing authorities shall allow **paid** trainees ~~or~~ **and paid** interns to arrange their work schedule if they need to attend classes during normal working hours. **Paid** trainees ~~or~~ **and paid** interns are not entitled to training leave while attending classes for the degree or certificate program they are required to complete during their train**ing** or intern**ship** ~~probationary~~ period.

Section 14-10 Types of 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:
 - 2. Separation of employees holding ~~non-career~~ **on-call, paid** trainee or **paid** intern ~~probationary~~, or employment probationary status;

Section 14-30 Separation of Employees Holding ~~Non-career~~ **On-call, Paid** Trainee or **Paid** Intern ~~Probationary~~, or Employment Probationary Status

- A. An employee holding ~~non-career~~ **on-call, paid** trainee or **paid** intern ~~probationary~~, or employment probationary status may be 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**.
- C. Employees holding on-call, **paid** trainee or **paid** intern ~~probationary~~, or employment probationary status may also be dismissed as provided in Rule 16 **DISCIPLINE AND DISMISSAL**.

14-42 Order of Lay-off

- E. Establishment of lay-off groups: After separating all ~~non-career~~ **on-call and employment probationary** status employees and abolishing all vacant positions in the class, the appointing authority shall divide the employees in the class where positions are being abolished into the following groups:

14-45 Actions In Lieu of Lay-off

- A. ~~Reassignment or~~ Transfer appointment: 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 14-45 C, D and E (~~Revised March 19, 2004; Rule Revision Memo 247B~~).
- E. ~~Reassignment~~ Transfer 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 reassigned~~ **transferring** 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, if appointed after January 16, 2004. This ~~reassignment~~ **transfer** shall not result in removal of the employee from the reinstatement list or lists (~~Revised March 19, 2004; Rule Revision Memo 247B~~).

/

16-75 Procedure for Dismissal

~~(Revised May 7, 2012; Rules Revision Memo 62C)~~

- A. An employee holding ~~non-career~~ **on-call, paid** trainee or **paid** intern probationary, or employment probationary status may be dismissed at any time. Such action may only be appealed on the grounds of alleged discrimination, or when the employee has alleged a violation of the "Whistleblower Protection" ordinance, in accordance with Rule 19
- APPEALS.**

~~RULE 6~~
~~EMPLOYEE TRAINING AND ORGANIZATIONAL DEVELOPMENT~~
~~(Effective April 1, 2006; Rule Revision Memo 6C)~~

~~Purpose statement:~~
~~(Revised January 12, 2007; Rule Revision Memo 13C)~~

~~The purpose of this rule is to set forth the responsibility, under the Denver Revised Municipal Code ("DRMC"), for developing and administering employee training and organizational development programs.~~

~~Section 6-10 Responsibility~~

- ~~A. Appointing authorities shall be responsible for providing services and support to managers/supervisors for training and developing their employees. Appointing authorities are responsible for assuring that training programs are geared to specific department or agency needs, are planned and established, and that their employees have an opportunity to participate in them.~~
- ~~B. The Office of Human Resources ("OHR"), in cooperation with other City departments and agencies, shall develop and make available to employees the City wide training programs required by this Rule 6, as well as any other training programs it deems are necessary.~~
- ~~C. The OHR, in cooperation with departments and agencies, shall establish program standards, and document and maintain records of achievement for all OHR sponsored training and career development programs. The OHR shall also be responsible for the coordination, evaluation and monitoring of these programs.~~

~~Section 6-20 Mandatory Programs~~
~~(Revised January 22, 2010; Rule Revision Memo 45C)~~

- ~~A. All Career Service employees serving employment probation are required to complete training programs during their probationary period that address the following topics:~~
- ~~1. New employee orientation;~~
 - ~~2. Ethics and accountability;~~
 - ~~3. Preventing harassment, workplace violence and bullying; and~~
 - ~~4. Any other training required by the DRMC and applicable Executive Orders.~~

~~B. Employees appointed to supervisory or managerial positions are required to complete supervisory training prior to the completion of their probationary period that addresses the following topics:~~

- ~~1. The Performance Enhancement Program and Performance Enhancement Program Reports;~~
- ~~2. Counseling and discipline; and~~
- ~~3. Employment laws and Career Service Rules.~~

~~C. Supervisory training is also required for employees promoted to positions with assigned supervisory duties in classifications which provide that supervisory duties may be assigned by position, even if these classifications are not ordinarily considered supervisory or managerial.~~

~~D. Before a request to re-allocate an employee to a supervisory or managerial classification can be accepted, the employee must have completed this supervisory training.~~

~~E. Failure to complete the required training course work shall result in the extension of probation until the course work has been completed, in accordance with Rule 5 **APPOINTMENTS AND STATUS**. City departments and agencies are expected to make sure their employees meet the training requirements of this rule.~~

~~F. Employees who have completed the required training within the three years prior to the effective date of appointment, promotion, or the submittal of a the re-allocation request are not required to take the training again as a condition of passing probation or of having the OHR consider a re-allocation request.~~

~~G. Departments or agencies may conduct training to fulfill the requirements established above, with the approval of the OHR Executive Director. Departments or agencies that conduct such training shall provide the OHR with documentation evidencing the completion of the required training. Such documentation shall include the course title, the names of employees who have completed the training, and the date of completion.~~

Section 6-30 Training Leave

~~The use of leave to take training courses is governed by Rule 10 **PAID LEAVE**.~~

~~APPENDIX 6.A.~~
~~SUPERVISORY AND MANAGERIAL CLASSIFICATIONS~~

The following list of classifications for which supervisory training is required is provided for informational purposes. Supervisory training may be required for other classifications not listed below based on subsequent changes to the Classification and Pay plan.

CLASSIFICATION TITLE	SUPERVISORY LEVEL	JOB CODE
Accounting Supervisor	6	CV1796
Agency Human Resources Director	4	CA2222
Agency Training Supervisor	6	CA2243
Animal Care Supervisor	6	CJ2473
Animal Control Investigation Supervisor	6	CN1808
Assistant Chief of Operations	4	CA2384
Assistant City Attorney - Division Director	5	CL1742
Assistant City Attorney - Section Supervisor	6	CL0359
Assistant Director Of Parks	7	CA0666
Associate Director of Physician Services	5	CO2725
Associate Director of Technical Physician Services	5	CO2728
Automotive Body Repair Supervisor	6	CJ2477
Automotive Service Center Supervisor	6	CJ2478
Aviation Customer Service Manager	7	CC2483
Aviation Customer Service Supervisor	6	CC2484
Aviation Noise Abatement Supervisor	6	CE2233
Aviation Operations Manager	7	CA0707
Aviation Operations Representative Supervisor	6	CA2487
Aviation Painting Supervisor	6	CJ2484
Aviation Planning Administrator	7	CE0376
Branch Manager	6	CA0910
Business Development Supervisor	6	CA2372
Buyer Supervisor	6	CA0722
Case Management Supervisor I	6	CA2694
Case Management Supervisor II	7	CA2697
Central Supply Supervisor	6	CJ2496
Chief Combination Inspector	6	CJ2499
Chief Paramedic	7	CO2716
Chief Medical Examiner and Coroner	6	CO2726
City Forester	7	CA0732
City Surveyor	4	CE0384
Concession and Asset Supervisor	6	CA0744
Construction and Maintenance Supervisor	6	CJ2500
Contact Center Director	5	CA2436

CLASSIFICATION TITLE	SUPERVISORY LEVEL	JOB CODE
Contact Center Operations Manager	4	CA2433
Contract Administration Supervisor	6	CA0750
Contract Compliance Supervisor	6	CA0753
Correctional Institutional Food Manager	7	CJ2507
County Court Marshal Supervisor	6	CN1867
Court Division Supervisor	7	CA0759
Crew Supervisor	6	CJ1869
Custodial Services Supervisor	7	CJ1872
Custodial Supervisor	6	CJ1874
Department Controller	5	CV2212
Deputy Director of Emergency Preparedness	7	CA0772
Deputy Manager of Aviation for Air Service		
Development, Marketing, and Public/Government Affairs	8	CA2214
Deputy Manager of Aviation for Finance and Administration	8	CA0775
Deputy Manager of Aviation for Maintenance Planning and Engineering	8	CA1533
Deputy Manager Of Aviation for Operations	8	CA0777
Deputy Public Trustee	6	CA0783
Deputy Sheriff Captain	7	CU1056
Deputy Sheriff Division Chief	7	CU1057
Deputy Sheriff Major	5	CU1058
Deputy Sheriff Sergeant	6	CU1059
Development and Planning Supervisor	6	CE1566
Diagnostic Imaging Supervisor	6	CO2707
Director of Aviation Maintenance	4	CA0794
Director of Employee Assistance	5	CA0806
Director of IT Customer Relationships	5	CI2407
Diversion Officer Supervisor	6	CN2164
Economic Development Supervisor	6	CA2174
Electrical Supervisor	6	CJ2516
Electronics Technician Supervisor	6	CJ2512
Engineer/Architect Supervisor	6	CE0403
Environmental Public Health Manager	4	CE2271
Environmental Public Health Program Supervisor	6	CE2270
Executive	9	CA1769
Executive Assistant to the Mayor	6	CA0860
Executive Manager	8	CA1760
Executive Manager	8	CE1761
Executive Manager	8	CI1762
Executive Manager	8	CV1913

CLASSIFICATION TITLE	SUPERVISORY LEVEL	JOB CODE
Facilities Superintendent	7	GJ2522
Field Superintendent	7	GJ1917
Fire Protection Supervisor	6	GE0410
Food Production Supervisor	6	GJ2524
Forensic Autopsy Technician Supervisor	6	GE2689
Forensic Scientist Supervisor	6	GE2105
GIS Photogrammetry Administrator	6	GI0344
Golf Course Operator	6	GJ2527
Golf Professional	6	GA2528
Graphics Supervisor	6	GA2532
Heavy Equipment Mechanic Line Supervisor	6	GJ2534
HVAC Supervisor	6	GJ2540
Hospital Housekeeping Manager	7	GJ1934
Human Resources Supervisor	6	GA0926
Human Resources Technician Supervisor	6	GA2219
Human Service Supervisor	6	GA2685
Imaging Operations Supervisor	7	GO2711
Information Technology Division Director	5	GI1565
Information Technology Supervisor	6	GI1563
Information Technology Technician Supervisor	6	GI1661
Institution Food Steward Supervisor	6	GJ2543
Internal Audit Supervisor	6	CV2241
Investigator Supervisor	6	CN1940
Land Surveyor Supervisor	6	GE2176
Landscape Architect Supervisor	6	GE0417
Landside Service Supervisor	6	CN1944
Laundry Supervisor	6	GJ2545
Legal Administrator	6	GA0895
Maintenance Control Supervisor	6	GA2554
Management Analyst Supervisor	6	GA2255
Manager 1	4	GA1744
Manager 1	4	GE2168
Manager 1	4	GI1745
Manager 1	4	CV1951
Manager 2	5	GA1748
Manager 2	5	GE1749
Manager 2	5	GI1750
Manager 2	5	CV1955
Manager of Air Service Development	6	GA2632
Marketing/Public Relations Administrator	6	GA1977
Materials Laboratory Administrator	6	GE2408

CLASSIFICATION TITLE	SUPERVISORY LEVEL	JOB CODE
Mechanic Line Supervisor	6	GJ2560
Medical Imaging Manager	7	CO2715
Medical Technologist Section Supervisor	6	CO0583
Medical Technologist Unit Supervisor	6	CO0585
Motor Vehicle Supervisor	6	CC2354
Multiple Trades Supervisor	6	GJ2562
Nursing Clinical Coordinator	6	CO0593
Nursing Operations Manager	5	CO0594
Nursing Program Manager	6	CO0595
Operational Supervisor I	6	EA2313
Operational Supervisor I	6	CV2357
Operational Supervisor II	7	EA2314
Operations Supervisor	6	GJ1982
Outreach Case Coordinator Supervisor	6	EA2692
Paramedic Dispatch Supervisor	6	CN2568
Paramedic Field Supervisor	6	CO2698
Paramedic Fleet Supervisor	6	CO2704
Paramedic Operations Supervisor	6	CH0544
Parking/Speeding Enforcement Supervisor	6	CN1984
Payroll Supervisor	6	CV2363
Permit Supervisor	6	CE1597
Plans Review Supervisor	6	CE2229
Plumbing Supervisor	6	GJ2573
Probation Officer Supervisor	6	CN1997
Program Manager	6	EA1714
Psychologist Supervisor	6	CO0608
Public Health Veterinarian	6	CO2712
Ramp Tower Supervisor	6	EA2184
Real Property Appraiser Supervisor	6	CV2008
Recreation Manager	7	EA0963
Recreation Supervisor	6	EA2584
Research Supervisor	6	EA0969
Safety and Industrial Hygiene Supervisor	6	EA2215
Security Supervisor	6	CN2018
Senior Physician	6	CO2723
Senior Technical Physician	6	CO2727
Senior Television and Video Producer	6	EA2588
Senior Transcriptionist	6	CC0304
Social Case Worker Manager	7	CO2046
Social Case Worker Supervisor	6	CO0625
Special Education Teacher Supervisor	6	CO2302

CLASSIFICATION TITLE	SUPERVISORY LEVEL	JOB CODE
Special Education Teaching Assistant Supervisor	6	CO2447
Stapleton Redevelopment Programs Manager	6	CA1008
Stockroom Manager	7	CJ2603
Stockroom Supervisor	6	CJ2604
Supervisor of Administrative Support I	6	CC1508
Supervisor of Administrative Support II	7	CC1513
Superintendent of Radio Communications	7	CT1652
Tax Audit Supervisor	6	CV2237
Tax Revenue Agent Supervisor	6	CV2132
Telecommunications Administrator	6	CI1017
Tenant Facility Project Supervisor	6	CE0439
Therapist Supervisor	6	CO2190
Traffic Signal Technician Supervisor	6	CJ2611
Turf Equipment Mechanic Supervisor	6	CJ2614
Underground Utility Investigator Supervisor	6	CN2082
Wastewater Quality Control Manager	7	CE1680
Wastewater Quality Control Supervisor	6	CE1712
Workers Compensation Claims Supervisor	6	CA1048
Youth Counselor Supervisor	6	CO2281
Zoo Area Supervisor	6	CA2102
Zoo Veterinarian	6	CO2713
Zoo Veterinarian (Hourly)	6	CO2714

SUPERVISORY LEVEL LEGEND

- ~~4 — Manager 1 (1st Level Manager)~~
- ~~5 — Manager 2 (2nd Level Manager/Core Middle Manager)~~
- ~~6 — First Level Supervisor~~
- ~~7 — Second Level Supervisor (Supervisor over supervisors)~~
- ~~8 — Executive Manager (3rd level Manager & above, but excludes Top Manager)~~
- ~~9 — Executive (Top Manager, including Charter Officers, Elected Charter Officers, City Librarian and OHR Executive Director)~~

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

**RULE 5
APPOINTMENTS AND STATUS**

Purpose statement:

The purpose of this rule is to identify:

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

Section 5-10 Appointments by Appointing Authority

- A.** The Career Service shall comprise all employees of the City and their positions, subject to the exceptions in the City Charter (~~relevant sections have been attached as an appendix to this rule~~). ~~Election Judge positions are not part of the Career Service. Appointment to any position in the Career Service shall be made by an appointing authority, subject to local, state, and federal employment laws (Effective June 8, 2007; Rule Revision Memo 19C).~~
- B.** ~~Section 5-15 Delegation of Authority by Personnel Director (Effective June 17, 2011; Rules Revision Memo 54C)~~

Appointing authorities, including the Office of Human Resources (“OHR”) Executive Director, may delegate any authority given **provided** under this Rule **5** to a subordinate employee.

5-11 Appointments of Applicants Who Are Not in the Career Service
[MOVED FROM 5-71]

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

- C. Re-employment appointment: An appointment of a former employee to a position in the classification in which the employee was previously employed within the preceding five (5) years, or to a successor classification; or to any classification for which the employee is qualified, with the same or lower range minimum than the former classification, subject to the following conditions:
1. Former employees whose separation was the result of a dismissal are not eligible for re-employment;
 2. An appointment that is a re-instatement is not a re-employment appointment;
 3. In order to determine eligibility for re-employment into a successor classification, the OHR Executive Director may, on a case-by-case basis, review the duties previously performed as well as classification and pay; and
 4. A former employee who is re-employed shall serve in an employment probationary status.

5-12 Appointments of Employees Who Are in the Career Service

- A. Promotional appointment: An appointment of an employee to a position in a classification in which the range minimum of the pay range for the new classification is higher than the range minimum of the pay range for the employee's ~~current~~ previous classification.
[MOVED FROM 5-72 A]
- B. Promotional re-instatement appointment: An appointment of an employee who has been demoted in lieu of lay-off which is made as a result of referral from a re-instatement list in accordance with Rule 3 **RECRUITMENT**.
[MOVED FROM 5-72 B]
- C. Re-promotional appointments: A promotion of an employee to a position in a higher classification in which the employee was previously employed within the preceding five (5) years, or to a successor classification; or to any classification for which the employee is qualified, with the same or intervening range minimum as the ~~former~~ previous classification subject to the following conditions:
1. Appointments that are promotional re-instatements are not re-promotions; and
 2. In order to determine eligibility for re-promotion into a successor classification, the OHR Executive Director may, on a case-by-case basis, review the duties previously performed as well as classification and pay; ~~and~~
 - ~~3. An employee who is re-promoted shall serve in a promotional probationary status.~~
[MOVED FROM 5-72 C]

D. Transfer appointment: An appointment of an employee from a position in one classification to a different position in **the same** a classification **or a classification** with the same range minimum **for which the employee meets the minimum qualifications.**

~~1. In a different agency; or~~

~~2. In a different classification in the same agency.~~

[MOVED FROM 5-72 D]

~~A.1. An employee may be given a transfer appointment **between departments or agencies** provided that the employee and the receiving appointing authority consent, and that the requirements of Rule 3 **RECRUITMENT** are satisfied. The employee's status shall not be affected by this type of transfer appointment except as provided in paragraph C Transfer transition period.~~

[MOVED FROM 5-73 A]

~~2.B. Effective date of transfer: Unless otherwise agreed upon, a transfer appointment between departments or agencies becomes effective thirty (30) calendar days after the releasing department or agency is notified that the employee and the receiving department or agency have both consented to the transfer. However, the time may be shortened if the effective date is set jointly by the releasing appointing authority and the receiving appointing authority.~~

[MOVED FROM 5-73 B]

~~C. Transfer transition period:~~

~~1. Definition: A transfer transition period is a ninety day (90) period following the effective date of a transfer during which the appointing authority of the receiving agency may initiate a return from transfer.~~

~~2. Eligibility: A transfer transition period applies except in either of the following circumstances:~~

~~a. The employee has employment probation status on the effective date of the transfer; or~~

~~b. The transfer was either in lieu of lay-off or anticipation of lay-off.~~

~~3. Effect of returning from transfer: If a return from transfer is initiated during the transfer transition period, the employee shall be returned to a position in the same classification in the same department or agency as prior to the transfer.~~

- E. Demotion appointment: An appointment of an employee to a position in a classification **for which the employee meets the minimum qualifications and** in which the range minimum of the pay range of the new classification is lower than the range minimum of the pay range of the classification previously held. ~~However, this transaction shall not apply when an employee returns from promotional probation.~~

[MOVED FROM 5-72 E]

~~5-74 Demotion Appointments~~

~~(Effective May 4, 2007; Rule Revision Memo 18C; Revised July 19, 2012; Rule Revision Memo 64C)~~

- ~~1.A.~~ Reasons for demotion: An appointing authority may give a demotion appointment in the following instances:

~~a. 3.~~ Voluntary:

- ~~i.~~ When an employee requests the demotion, ~~assignment to work of less difficulty or responsibility~~ or accepts a voluntary demotion in lieu of lay-off as defined in Rule 14 **SEPARATION OTHER THAN DISMISSAL; or**

- ~~ii.~~ **When an employee accepts the offer of a position with lower pay and benefits as a reasonable accommodation in the ADA Interactive Process.**

~~b. 4.~~ In lieu of lay-off: When a position is to be abolished, in accordance with Rule 14 **SEPARATION OTHER THAN DISMISSAL.**

~~2.~~ ~~In lieu of separation during employment probationary status~~: ~~When an employee fails to perform satisfactorily, in accordance with subsection 5-61 Employees in Employment Probationary Status.~~

~~c.~~ Involuntary:

- ~~i.~~ **Through disciplinary action in accordance with Rule 16 DISCIPLINE AND DISMISSAL; or**

- ~~ii.~~ **In lieu of separation during employment probation in accordance with this Rule 5.**

2. Notice to employee: Before a demotion appointment is effective, the following documentation shall be provided to the employee and submitted to the OHR:

- a. Written consent of the employee to a voluntary demotion; or**
- b. A written notice of demotion in lieu of lay-off as required by Rule 14 SEPARATION OTHER THAN DISMISSAL; or**
- c. A written notice of disciplinary demotion as required by Rule 16 DISCIPLINE AND DISMISSAL; or**
- d. A written notice of demotion in lieu of separation during employment probation, or during paid trainee or paid intern status.**

~~B. Notice to employee: Before the demotion appointment is effective, the appointing authority shall furnish the employee a written statement containing the reasons for the demotion. If the demotion is voluntary, the statement should be signed by the employee. A copy of the statement shall be sent to the OHR before the demotion is effective.~~

~~C. OHR approval: Voluntary demotions must satisfy the requirements of Rule 3 RECRUITMENT. For all other types of demotions, the OHR shall approve the demotion appointment if it finds that the employee meets the minimum qualifications for the new class.~~

~~D. Appeal: All demotion appointments may be appealed under Rule 19 APPEALS provided that:~~

- ~~1. Demotion appointments in lieu of separation during probationary status or return from promotional probationary status may be appealed only on grounds of alleged discrimination;~~
- ~~2. Voluntary demotion appointments may be appealed only on grounds of alleged coercion; and~~
- ~~3. Demotion appointments resulting from a settlement of an appeal or grievance may be appealed only if the terms of the settlement have been violated.~~

[MOVED FROM 5-74]

~~F. Return from promotional probation appointment: Change of a career status employee serving promotional probation to a position in the class from which promoted within the agency from which promoted (Effective December 3, 1984, Rule Revision Memo 25B).~~

~~Section 5-80 Re-assignment
(Effective November 1, 1980; Rule Revision Memo 127A)~~

~~5-81 General~~

~~An appointing authority may assign or re-assign an employee at any time to any position within the employee's classification in the same agency or within consolidated appropriation accounts except as provided below (Effective October 5, 1995; Rule Revision Memo 184B).~~

~~5-82 Effect on Status (Effective July 11, 1994)~~

~~A re-assignment in no way affects the status of the employee involved.~~

~~5-83 Re-assignment to a Part-Time Position or to a Limited Position (Effective July 11, 1994)~~

~~A. To a part-time position: An employee may be re-assigned from a full-time position to a part-time position only if the employee consents to the re-assignment.~~

~~B. To a limited position: An employee may be re-assigned from an unlimited position to a limited position only if:~~

~~1. The employee consents to the re-assignment; or~~

~~2. The employee is granted a leave of absence from the original position for the duration of the re-assignment.~~

~~Section 5-20 ~~30~~ Types of Positions
(Effective November 1, 1980; Rule Revision Memo 127A).~~

~~5-21 ~~31~~ General~~

All positions in the Career Service shall be identified by the following two (2) characteristics:

- A. Duration; and
- B. Number of hours worked.

~~5-22 ~~32~~ Duration~~

The duration of each position in the Career Service shall be determined by one of the following definitions:

- A. Unlimited positions: A position which has no specified ending date.

- B. Limited position: A position which has a specified ending date. Examples are positions funded by grants, positions created to meet a special project or seasonal need, positions created to replace an employee on extended leave, positions created to provide program continuity on an acting basis while recruitment is underway to fill a vacant position, and similar positions created with a time limitation for comparable specific purposes.

5-23 ~~23~~ Number of Hours Worked

- A. Identification of positions by category: Each position in the Career Service shall be identified by one of the following ~~working hours~~ categories **based on work schedule**:

1. Full time;
2. Part time;
3. On call.

- B. Criteria of categories:

1. Full time: A full time position is one in which an employee is scheduled to work forty (40) hours per week. ~~If a special work schedule is authorized under Rule 9 PAY ADMINISTRATION, a full time position shall include a work schedule of eighty (80) hours in two (2) weeks, when applicable.~~
2. Part time: A part time position is one in which an employee is scheduled to work less than forty (40) hours per week.
3. On call: An on call position is one in which the employee works as needed. On-call positions may have routine or variable work patterns and are generally filled to accommodate seasonal or short term activities in various city agencies. Ushers are an example. Since Election Judges are not in the Career Service, they are not considered to be on-call Career Service employees. ~~(Effective June 8, 2007; Rule Revision Memo 19C)~~

Section 5-~~30~~ 40 Employee Status

(Effective November 1, 1980; Rule Revision Memo 127A; Revised April 1, 2006; Rule Revision Memo 6C)

~~5-41 General~~

Every Career Service employee shall hold **at least** one of the following employee status identifications: ~~determined by position characteristics, probation requirements, or both:~~

~~D. A. Non-career **At-will** status, **which is made up of:**~~

~~1. **On-call status;**~~

~~E. 2. **Paid** trainee or **paid** intern probationary status; **and**~~

~~A. 3. Employment probationary status.~~

~~B. **Career status**~~

~~C. **Promotional probationary status;**~~

~~F. **C. Senior Command Staff status.**~~

~~(Effective June 1, 2014; Rule Revision Memo 8D)~~

5-31 At-will Status

At-will employees:

A. *May be separated at any time; and*

B. *May not appeal any decision relating to his or her employment, including separation, except on the grounds of alleged discrimination or violation of the City's "Whistleblower Protection" ordinance.*

~~5-42 How Status is Attained~~

~~D. **Non-career:**~~

5-32 On-call status

Every person who is appointed to an on-call position shall hold ~~non-career~~ **on-call** status for the duration of the appointment ~~and shall not serve a probationary period.~~

[MOVED FROM 5-42 D]

~~5-64 Employees in Non-Career Status
(Revised October 2, 2007; Rule Revision Memo 22C)~~

~~An employee in non-career status:~~

- ~~A. May be terminated at any time;~~
- ~~B. May not appeal any decision relating to his or her employment, including termination, except on the grounds of alleged discrimination or violation of the City's "Whistleblower Protection" ordinance;~~
- ~~C. May promote, to a higher level class if qualified in accordance with these rules;~~
- ~~D. May be re-assigned or transferred to another position in a class with the same job rate; and~~
- ~~E. May demote to another position, if qualified.~~

5-33 Paid Trainee or Paid Intern Status

~~E. A. Trainee or intern probationary:~~ Every person who is appointed to a trainee or intern position shall hold **paid** trainee or **paid** intern probationary status for the duration of the appointment, as required for the applicable trainee or intern classification specification. The Public Safety Cadet classification is considered a trainee classification under these rules.

B. The duration of paid trainee and paid intern status is set by the applicable classification specification.

~~5-72 Appointments of Employees Who Are in the Career Service~~

~~C. G. End of **paid** training or **paid** internship probationary period:~~

1. The department or agency shall report to the OHR, in writing, at the conclusion of the **paid** trainee or **paid** intern **status** probationary period, whether the trainee or intern has successfully completed the **training or internship** probationary period by acquiring the competencies, knowledge, skills and abilities necessary to satisfactorily perform the duties of the position.
2. An appointing authority may request, in writing to the OHR Executive Director, that the trainee or intern be deemed to have successfully completed the probationary **training or internship** period prior to the employee's completion of the ~~trainee or intern probationary~~ **training or internship** period.
3. Upon a determination by the OHR that the trainee or intern has successfully completed the ~~trainee or intern probationary~~ **training or internship** period, the department or agency may promote the trainee or intern into the position the trainee or intern was being trained to perform.

~~5-65 Employees in Trainee or Intern Probationary Status
(Revised October 2, 2007; Rule Revision Memo 22C)~~

~~An employee in trainee or intern probationary status:~~

- ~~A. May be terminated or demoted at any time;~~
- ~~B. May not appeal any decision relating to his or her employment, including termination, except on the grounds of alleged discrimination or violation of the City's "Whistleblower Protection" ordinance;~~
- ~~C. Is entitled to accumulate and take leave in accordance with Rule 10 **PAID LEAVE** (Revised January 1, 2010; Rule Revision Memo 42C);~~
- ~~D. Is entitled to disability leave in accordance with Rule 11 **UNPAID AND EXTENDED LEAVE** (Revised January 1, 2010; Rule Revision Memo 42C);~~
- ~~E. May promote, to a higher level class if qualified in accordance with these rules~~
- ~~F. May be re-assigned or transferred to another position in a class with the same job rate; and~~
- ~~G. May demote to another position, if qualified.~~

~~**5-34 Employment Probationary Status:** 5-42 How Status is Attained~~

- ~~A. Employment probationary: Every person when first appointed or re-employed to a full time or part time, limited or unlimited Career Service position, that is not a trainee or intern position, shall hold employment probationary status for the probation **ary** period **established by this Rule 5.** required for the class.~~

~~Section 5-50 Probation~~

~~(Effective November 1, 1980; Rule Revision Memo 127A; Revised April 1, 2006; Rule Revision Memo 6C)~~

~~5-51 Purpose (Effective December 2, 1981; Rule Revision Memo 25B)~~

- ~~**B. An employment p**robnatory periods shall be regarded as **an** integral parts of the examination process. ~~and **It**~~ shall be utilized for closely observing the employee's work, assisting the employee to adjust to the duties and responsibilities of the position, and to separate or demote ~~or return from promotional probation~~ an employee **as provided in this rule** whose performance does not meet required standards, in accordance with the following:~~

~~Section 6-20 Mandatory Programs~~

~~(Revised January 22, 2010; Rule Revision Memo 45C)~~

C. 5- 52 Duration of *Employment* Probation

~~A. Minimum period: Except ***as provided below*** for Deputy Sheriffs, the minimum period of employment and promotional probation shall be six (6) months. The duration of trainee and intern probation is set by the applicable classification specification.~~

1. The minimum period of ***employment*** probation for ***employees in*** Deputy Sheriff ***classifications*** shall be twelve (12) months.

2. ***The minimum period of employment probation for employees in the Aviation Emergency Dispatcher, Emergency Communications Operator and Police Dispatcher classifications shall be nine (9) months.***

D. ***An employee's end of probation date shall be calculated by adding the required amount of months (six, nine or twelve months) to the employee's hire date and subtracting a day.***

~~**E.** ***Required training:***~~

1. All Career Service employees serving employment probation are required to complete training programs during their probationary period that address the following topics:

~~**1**~~ **a.** New employee orientation;

~~**2**~~ **b.** Ethics and accountability;

~~**3**~~ **c.** Preventing harassment ***and*** workplace violence ~~and bullying~~; and

~~**4**~~ **d.** Any other training required by the DRMC and applicable Executive Orders.

~~B~~ **2.** Employees appointed or re-allocated to supervisory or managerial positions with supervisory or managerial duties are required to complete ~~supervisory~~ new manager training prior to the completion of their employment probationary period that addresses the following topics:

~~4~~ **a.** The Performance Enhancement Program and Performance Enhancement Program Reports;

~~2~~ **b.** ~~Counseling and discipline~~ Preventing harassment and workplace violence (for managers); and

~~3~~ **c.** Employment laws, ~~and~~ the Career Service Rules, and discipline.

Employees who are serving employment probation as a result of being appointed to a position with supervisory or managerial duties are required to complete the required supervisory training during their probationary period.

~~E.~~ ~~Failure to complete the required training course work shall result in the extension of probation until the course work has been completed, in accordance with Rule 5~~ **APPOINTMENTS AND STATUS.** ~~City departments and agencies are expected to make sure their employees meet the training requirements of this rule.~~

~~F~~ **3.** Employees who have completed the required training or who have held a position within the Career Service with supervisory or managerial duties within the three years prior to the effective date of appointment, promotion, or the submittal of a the re-allocation request are not required to take the training again ~~as a condition of passing probation or of having the OHR consider a re-allocation request.~~

~~4.~~ Departments or agencies may conduct training to fulfill the requirements established above, with the approval of the OHR Executive Director. Departments or agencies that conduct such training shall provide the OHR with documentation evidencing the completion of the required training. Such documentation shall include the course title, the names of employees who have completed the training, and the date of completion.

~~5 A.~~ ~~During employment, trainee or intern probation:~~ An employee serving employment, ~~trainee, or intern~~ probation may be separated in accordance with Rule 16 **DISCIPLINE AND DISMISSAL**, or demoted to a position with less responsibility in accordance with this Rule 5 paragraph ~~5-72 E~~ ~~Demotion appointment.~~ Upon demotion **An employee who is appointed to another position during employment probation,** the employee shall begin a new employment probationary period.

~~B.~~ ~~During promotional probation:~~ An employee serving promotional probation shall be returned from promotional probation to a position in the class from which promoted within the agency from which promoted. The failure to satisfactorily complete a promotional probationary period shall be documented in accordance with ~~subsection 5-53 End of Probation Notification and subsection 5-63 Employees in Promotional Probationary Status (Effective July 1, 1991; Rule Revision Memo 147B).~~

~~F B.~~ Extension of **employment** probation:

1. ~~At the request of an Appointing authority,~~ ~~iesy,~~ the OHR Executive Director may approve the extension of **an employee's** employment probation **for a period not to exceed an additional six (6) months after the original end of probation date,** if the Executive Director considers the best interests of the City to be served thereby. **Notice of the extension shall be given to the employee and received by the OHR prior to the end of the employee's end of probation date. Employment probation for employees in the Aviation Emergency Dispatcher, Emergency Communications Operator and Police Dispatcher classifications may only be extended for a period not to exceed an additional three (3) months after the original end of probation date.**

2. Employees serving employment or promotional probation who have not completed training programs required by this rule ~~Rule 6~~ ~~**EMPLOYEE TRAINING AND ORGANIZATIONAL DEVELOPMENT**~~ as a condition of passing probation will have their probationary periods automatically extended until the training programs have been completed and documentation evidencing such completion has been provided to the Career Service Authority ("CSA"). **City departments and agencies are expected to make sure their employees meet the training requirements of this rule.** This paragraph shall not affect a department or agency's ability to end probation at any time. ~~(Revised January 22, 2010; Rule Revision Memo 45C).~~

~~C. Measurement of time: For the purposes of this subsection, time shall be measured in calendar days, irrespective of whether the position has a full-time or part-time work schedule.~~

~~G. 5-53 End of **Employment** Probation Notification
(Effective July 1, 1991; Rule Revision Memo 147B)~~

~~A. General: Employee performance during a probationary period shall be documented by probationary reports. Employee performance shall be certified by an end-of-probation notification, or a written statement indicating the employee has passed or failed in completing the probationary period.~~

~~1. **Supervisors are encouraged to evaluate employee performance and discuss it with the employee during the employment probationary period so that employees are fully informed of their progress.**~~

~~2 B. **Effective dates for end of probation notification:**~~

~~1. End of probation notification: **An employee's successful completion of performance during a n employment probationary period shall be documented by the completion of a notification form prepared by the employing department or agency in a format authorized by the OHR.**~~

~~3. a. If **a department or agency is going to separate an** the employee **during** fails to pass **employment** probation, a **written notice of separation or dismissal**, letter notifying the employee, copied to the CSA, shall substitute for the notification form. ~~In either case, it shall be due before the effective date of attainment of career status.~~~~

~~b. **Such notice shall be given to the employee on or before the employee's last day of employment probation and last day as a City employee.**~~

~~2. Dates: The date of notification shall be prior to the conclusion of the required probationary period.~~

~~3. Other probationary appraisals: Supervisors are encouraged to continually appraise performance during the probationary period so that employees are fully informed of their progress.~~

~~C. Failure to file an end of probation notification letter or form: An employee who has completed the required **employment** probationary period and the training programs required by **this rule** ~~Rule 6 **EMPLOYEE TRAINING AND ORGANIZATIONAL DEVELOPMENT**~~ shall attain career status unless the required notification letter **a written notice of the extension of the employee's employment probation, or of the employee's separation or dismissal has been given to the employee and** or form stating successful completion or failure in completing the probationary period has been received at the OHR prior to the end of the **employment** probationary period.~~

~~D. Procedure when employee will not pass probation: If it is anticipated that the employee will not pass probation, the agency shall notify the employee of this decision a reasonable time in advance, but no less than two (2) working days prior to the completion of probation date, and shall allow representation at the meeting to discuss this action.~~

~~E. The provisions of this subsection 5-53 End of Probation Notification, do not apply to employees in trainee or intern probation.~~

~~Section 5-60 Effect of Employment Status on Employee Rights, Privileges and Benefits. (Effective November 1, 1980; Rule Revision Memo 127A; Re-numbered October 17, 2010; Rule Revision Memo 47C)~~

~~5-61 Employees in Employment Probationary Status (Revised October 2, 2007; Rule Revision Memo 22C)~~

~~An employee in employment probationary status:~~

~~C. Is entitled to accumulate leave in accordance with Rule 10 **PAID LEAVE** (Revised May 7, 2012; Rule Revision Memo 62C);~~

~~D. Is entitled to disability leave in accordance with Rule 11 **UNPAID AND EXTENDED LEAVE** (Revised January 1, 2010; Rule Revision Memo 42C); and~~

~~A. May be terminated or demoted at any time;~~

~~B. May not appeal any decision relating to his or her employment, including terminated, except on the grounds of alleged discrimination or violation of the City's "Whistleblower Protection" ordinance;~~

~~E. Is entitled to such other rights, privileges, and benefits as set forth in these Rules.~~

5-35 Career Status

5-42 How Status is Attained

B. Career:

A. 1. General: Employees attain career status through:

a. 1. Successful completion of the **employment** probationary period, and the training programs required by **this Rule 5** ~~Rule 6~~ **EMPLOYEE TRAINING AND ORGANIZATIONAL DEVELOPMENT**; or

b. 2. Re-instatement after lay-off.

~~2. Promotion while on employment probation: An employee promoted while on employment probation shall attain career status in the former class upon satisfactory completion of the number of months required in that former class. In order to achieve career status in the class to which promoted, the employee shall serve the remaining probationary period required for that class in promotional probationary status.~~

~~C. Promotional probationary: Every career status employee who receives a promotional appointment (including re-promotion) shall hold promotional probationary status for the full probationary period of the new class. A promotional probationary employee who transfers from career status to non-career status and back again shall have promotional probationary status as of the date immediately preceding the initial transfer.~~

5-62 Employees in Career Status

B. An employee in career status:

~~C. Is entitled to the full benefit of leave provisions in accordance with Rule 10 **PAID LEAVE** (Revised January 1, 2010; Rule Revision Memo 42C);~~

~~D. May earn merit increases and merit payments in accordance with Rule 13 **PAY FOR PERFORMANCE** (Effective September 1, 1989; Rule Revision Memo 129B);~~

~~A. 1. May **only** be disciplined or dismissed ~~only~~ for cause, in accordance with Rule 16, **DISCIPLINE AND DISMISSAL**;~~

~~B. May file a grievance or appeal for any reason specified in Rule 18 **DISPUTE RESOLUTION** or Rule 19 **APPEALS**;~~

- ~~Ⓔ~~ **2.** Is entitled to lay-off protection specified in Rule 14 **SEPARATION OTHER THAN DISMISSAL**, except for employees appointed to **in** limited positions after January 16, 2004 (~~Revised March 19, 2004; Rule Revision Memo 247B~~); **and**
- ~~F.~~ May receive re-instatement appointments (as provided in Rule 3 **RECRUITMENT**), re-assignments, transfer appointments, or demotion appointments without serving a new probationary period (~~Revised March 19, 2004; Rule Revision Memo 247B~~);
- ~~Ⓒ~~ **3.** May have continuous service credits earned prior to lay-off restored if such employee is re-instated or re-employed while still on the re-instatement list. (~~Effective December 18, 1980; Rule Revision Memo 1B~~); **and**
- ~~H~~ Is entitled to such other rights, privileges and benefits as set forth in these rules.

~~5-63 Employees in Promotional Probationary Status
(Revised October 2, 2007; Rule Revision Memo 22C)~~

~~An employee in promotional probationary status, whether attained through promotional or re-promotional appointment, has the rights, privileges, and benefits of an employee in career status, except that if the employee does not perform at or above "Successful" on a Performance Enhancement Program Report during the promotional probationary period, the employee shall be returned to a position in the class from which promoted within the department or agency from which promoted. A return from promotional probation may not be appealed except on the grounds of alleged discrimination or violation of the City's "Whistleblower Protection" ordinance.~~

5-36 Senior Command Staff Status

~~5-42 How Status is Attained~~

~~**A.F. Senior Command Staff:** Every employee in a position in a classification in the Deputy Sheriff pay schedule who is appointed to a position in the Deputy Sheriff Major or Deputy Sheriff Division Chief classifications after May 31, 2014 shall hold Senior Command Staff status for the duration of the appointment and shall not serve a probationary period. However, such employee shall retain career status attained in his or her former classification and be entitled to return to a position in that classification when the employee's Senior Command Staff status ends. (~~Effective June 1, 2014; Rule Revision Memo 8D~~)~~

~~5-66~~ **B** Employees in Senior Command Staff Status

An employee in Senior Command Staff status retains the rights, privileges, and benefits the employee had by virtue of his or her status prior to the appointment, except that the employee:

1. May be returned to a position in his or her former classification at any time. Upon returning, the employee shall receive the same rate of pay he or she was receiving prior to his or her appointment to a position in the Deputy Sheriff Major or Deputy Sheriff Division Chief classifications (Senior Command Staff position), after taking into account the effect of any pay changes or classification changes to the employee's former position and classification that occurred during the period between the appointment and the return; and
2. May not grieve or appeal his or her removal from a Senior Command Staff position;

Employees who were appointed to Senior Command Staff positions prior to June 1, 2014 shall retain career status attained in that position and shall not be considered to have Senior Command Staff status.

~~5-72~~ Appointments of Employees Who Are in the Career Service
(Effective May 4, 2007; Rule Revision Memo 18C)

~~H. Senior command staff appointment: An appointment of an employee in a position in a classification in the Deputy Sheriff pay schedule to a position in the Deputy Sheriff Major or Deputy Sheriff Division Chief classifications after May 31, 2014. (Effective June 1, 2014; Rule Revision Memo 8D)~~

Section 5-40 Medical Examinations Following a Conditional Offer of Employment
[MOVED FROM 5-20]

5-41 Medical Groups

All classifications in the Career Service shall be allocated to a medical group by the OHR Executive Director. The medical groups are as follows:

- A. Heavy (H): Positions which demand a very high degree of physical fitness ~~and health~~.
- B. Medium (M): Positions which demand considerable labor and exertion or in which safety considerations mandate a high degree of physical fitness ~~and health~~.
- C. Sedentary (S): Positions which require little physical labor or exertion ~~and an average degree of health~~.

5-42 Adoption of Medical Standards

Medical criteria for each medical group or for individual classifications within a medical group shall be proposed by the Center for Occupational Safety and Health at Denver Health or by another designated provider (as defined in Chapter 18, Article VII of the Denver Revised Municipal Code – Treatment of Occupational Injury or Disease), if selected by the appointing authority. Approval of the proposed medical criteria shall be the responsibility of the OHR Executive Director. Medical criteria must be job-related and consistent with business necessity. Medical criteria shall be used as a guide in determining an applicant’s ability to perform the essential physical functions of a position either with or without reasonable accommodations.

5-43 Medical Examinations

- A. Applicants who are offered positions in a classification in group H or M are required to submit to a medical examination after receiving an offer of employment conditioned on the results of the medical examination. The examination shall be administered by one of the City’s designated providers (as defined in the previous subsection). The examination shall be completed after the conditional offer of employment has been given to the applicant and before the first day of work.
- B. Applicants who are offered positions in a classification in group S are not required to submit to a post-employment offer medical examination unless the position has other assigned duties that demand a high degree of physical fitness ~~and health~~ (such as operating snow removal equipment). The determination of whether a conditional offer of employment and a post-employment offer medical examination is required ~~shall be made by the appointing authority~~ and shall be based on the physical requirements of the position.
- C. If it is determined that the applicant is unable to perform the essential functions of the position with or without reasonable accommodations, the offer of employment shall be rescinded.

Section 5-50 ~~99~~ Dual Incumbency
(Effective May 4, 2007; Rule Revision Memo 18C)

Subject to approval by the Budget and Management Office, **or its designee**, an employee may be appointed to occupy a position currently occupied by another employee for a period not to exceed three (3) months. If it is desired to continue such an arrangement for more than three months, it shall be done by the creation of a limited position rather than dual incumbency in a single position.

DENVER CITY CHARTER §1.2 OFFICERS AND EMPLOYEES
DUAL EMPLOYMENT
§1.2.8 Holding other office or employment
(A) Employees and Appointed Charter Officers. No employee or appointed Charter officer shall have other employment or hold any public office that is

~~incompatible with his or her duties. Every employee and appointed officer shall notify his or her appointing authority in writing before accepting any other employment or public office; newly hired employees and appointed officers shall report any outside employment or office immediately upon being hired or appointed.~~

~~(B) Elected Charter Officers. Elected officers of the City shall not hold any other public elective office or any employment that is incompatible with their duties. Elected officers shall not hold any other employment with the City. Elected officers shall waive any additional compensation when they serve upon the governing board or body of any public body or any municipal or quasi-municipal corporation within which or part of which the City or a part of it is located, or of which the City is an interested or constituent member.~~

~~**§1.2.9 Ethics and Conflicts of interest.**~~

~~(A) No officer or employee shall have any interest arising by contract or other relationship that creates a substantial conflict of interest with respect to his or her duties, unless the conflict can be avoided by abstention or disqualification from participating in a transaction without adversely affecting the interests of the City. Every employee and appointed officer shall report promptly in writing to his or her appointing authority any business activity or situation that may be or may become a substantial conflict of interest.~~

~~**THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES
AND IS NOT CONSIDERED A PART OF THE RULES**~~

[MOVED TO RULE 15]

Section 5-~~60~~ 400 Dual Employment

~~(Effective June 7, 1962; Rule Revision Memo 130A; Revised October 17, 2010; Rule Revision Memo 47C)~~

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

- A. Since a position is by definition an aggregate of duties to be performed by one (1) person, an employee may occupy only one (1) full-time position.
- B. An employee may occupy more than one (1) part-time position, more than one (1) on-call position, or a combination of part-time and on-call positions provided that the total time worked does not exceed the equivalent of a full-time position (Effective December 18, 1980; Rule Revision Memo 2B).

Section 5-70 440 Compliance with the Immigration Reform and Control Act of 1986
(Effective May 21, 1987; Rule Revision Memo 96B)

5-71 444 Policy

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

5-72 442 New Hires

No person hired on or after May 21, 1987 shall be employed for more than three (3) working days unless such employee has submitted to the OHR the documentary evidence of identity and authorization to work required by **Federal immigration law** ~~the Immigration Reform and Control Act of 1986 and federal regulations based on that Act.~~

5-113 Installation

~~Persons employed between November 6, 1986 and May 21, 1987 shall provide to the OHR by May 30, 1987, documents required by the Immigration Reform and Control Act and regulations based on that Act, establishing identity and authority to work.~~

5-114 When Documents Required

~~The OHR Executive Director may establish the time and place for review of documents, provided the provisions of subsections 5-112 New Hires, and 5-113 Installation are met.~~

5-73 445 Penalty

In accordance with the requirements of **Federal immigration law** ~~the Immigration Reform and Control Act of 1986~~, any employee failing to comply with **this** ~~subsections 5-112 New Hires, and 5-113 Installation~~ **of Rule 5 APPOINTMENTS AND STATUS** shall be separated for the good of the service.

Section 5-80 The ADA Interactive Process

5-81 Policy

~~5-84 Reasonable Accommodations for Individuals with Disabilities Policy~~

- A.** It is the policy of the OHR City to provide equal employment opportunity to individuals with disabilities. This rule is intended to comply with and be interpreted consistently with the Americans with Disabilities Act of 1990 ("ADA"), as amended. **In case of a conflict between this rule and the ADA (and its corresponding regulations), the ADA will control. Additional information about the ADA may be found on the Equal Employment Opportunity Commission's website, www.eeoc.gov.**

[MOVED FROM 5-84]

- ~~A. Disability discrimination.~~ **B.** No appointing authority, official, supervisor or employee shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, or ~~other~~ **any** terms, conditions, or privileges of employment.

[MOVED FROM 5-84.A]

5-82 ADA Definitions

- A. ADA Coordinator: Person or persons designated by the OHR Executive Director to act on behalf of the OHR in the Interactive Process (IAP).**

- ~~D. Qualified individual with a disability:~~

~~A disabled individual is an individual who has:~~

- ~~1. A physical or mental impairment that substantially limits one or more of the individual's major life activities;~~
- ~~2. A record of such an impairment; or~~
- ~~3. Being regarded as having such an impairment.~~

~~An individual with a disability who can perform the essential functions of the position he or she holds or to which he or she seeks re-assignment, with or without reasonable accommodation.~~

- B. Vacant position: An empty position that a department or agency is authorized to fill and intends to fill.**

~~5-83 Interactive Process (IAP) B. Reasonable accommodation:~~

~~A.~~ A department or agency shall provide a reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless it can be demonstrated that the accommodation would impose an undue hardship on the operation of the department or agency, or pose a direct threat to any person. These determinations with regard to employees shall be made through the IAP. The process for accommodating applicants can be found in Rule 3 RECRUITMENT.
[MOVED FROM 5-84 B]

~~E. Interactive process:~~

~~E.B.~~ The City shall initiate an IAP when:

1. ~~If~~ an employee ~~(1)~~ provides notice that the employee needs a reasonable accommodation to perform the essential functions of the employee's position; or

[MOVED FROM 5-84 E.1]

2. The employee's department or agency has actual or constructive notice that an employee may have a disability for which the employee needs reasonable accommodation ~~the department or agency shall initiate an interactive process within twenty (20) calendar days or a longer period, if approved by the OHR Executive Director or designee and reasonable under the circumstances.~~

[MOVED FROM 5-84 E.1]

~~C.~~ The ~~interactive process~~ IAP shall be a flexible, informal process that involves the department or agency, the employee and the ~~OHR designee~~. ~~The purpose of the interactive process shall be to determine if the employee (1) is disabled within the meaning of the ADA; and (2) if so, whether the employee can be reasonably accommodated in his or her position. The interactive process requires good faith participation from both the employee and the department or agency. The OHR designee shall make the final determination, after consulting with the department or agency, as to whether the employee is disabled under the ADA and can be accommodated in his or her position.~~ ADA Coordinator, and requires the good faith participation of all parties. The ADA Coordinator may terminate the IAP if the employee fails to cooperate in the process.

[MOVED FROM 5-84 E.1]

- D.** The purpose of the **IAP** shall be to determine if:
- 1.** ~~The employee~~ **has a disability** ~~is disabled~~ within the meaning of the ADA;
 - 2.** **If so, whether the employee needs a reasonable accommodation to perform the essential duties of his or her job, or another job;** and
 - 3.** If so, whether the employee can be reasonably accommodated.
[MOVED FROM 5-84 E.1]
- E.** In **order to** making ~~this~~ **is** determination ~~that an employee has a disability within the meaning of this rule, the OHR, department, or agency, the~~ **ADA Coordinator** may request and review medical records and other documentation in the possession, custody, or control of the employee's ~~or his or her~~ health care providers. ~~The OHR, the department, or agency also~~ **ADA Coordinator** may **also** obtain an independent medical evaluation for the purpose of gathering information needed to make this determination. Such examinations and evaluations shall be reasonable and paid for **by** the department or agency where the employee is presently employed.
[MOVED FROM 5-84 E.2]
- F.** If the employee is determined to ~~be disabled~~ **have a disability** as defined in ~~this rule~~ **the ADA**, the ~~OHR~~ **ADA Coordinator**, department or agency, and the employee shall endeavor to identify any reasonable accommodations the employee may need to **be able to** perform the essential functions of his or her position. The preferred option always shall be a reasonable accommodation that allows the employee to remain in his or her existing job.
[MOVED FROM 5-84 E.4]
- G.** If the employee is determined not to ~~be disabled~~ **have a disability** as defined in ~~this rule~~ **the ADA**, **or it is determined that the employee cannot be reasonably accommodated, the ADA Coordinator will end the IAP and** disqualification proceedings may be initiated **by the employee's department or agency** if the employee ~~nevertheless is~~ **remains** unable to perform the essential functions of ~~the~~ **his or her** position.
[MOVED FROM 5-84 E.3]
- ~~C. Qualification standards and Direct Threat:~~

~~It is not a violation of this policy for the OHR to apply qualification standards, tests, or selection criteria or for an department or agency to apply selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability if such standards, tests, or selection criteria have been shown to be job related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation.~~
[MOVED FROM 5-84 C]

~~Qualification standards may include a requirement that an individual shall not pose a direct threat to the health or safety of the individual or other individuals in~~

~~the workplace. Direct threat means a significant risk to the health or safety of others that cannot be eliminated by a reasonable accommodation.~~

~~[MOVED FROM 5-84 C, p.2]~~

~~5. Before rejecting or denying a reasonable accommodation by re-assignment to a job on the basis that the individual poses a direct threat to the health and safety of the employee or others, the OHR shall perform an individualized assessment of that individual's ability to perform safely the essential functions of the re-assignment position. In making this determination, a number of factors shall be considered, including but not limited to the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the imminence of the potential harm. The OHR will consider input from the individual, the experience of that individual in previous similar positions, medical judgment that relies on the best available objective evidence, the opinions of medical doctors and other health care providers, professionals or associates who have expertise in the medical condition involved, and/or direct knowledge of that individual's qualifications or ability to perform the job.~~

~~6. If the OHR believes that an individual with a disability poses a direct threat to himself or herself or others, the employee shall be advised of the reasons for the proposed rejection, including each essential function of the job which it has been determined the individual cannot safely perform and the reasons why the individual cannot safely perform those functions. The OHR shall invite the individual to provide, within a reasonable time, additional information regarding his or her ability to safely perform the job, with or without reasonable accommodation, including but not limited to information from other physicians and information about the individual's current and recent physical capabilities. The OHR shall maintain records of all factors considered in reaching its final decision.~~

~~[MOVED FROM 5-84 F.6]~~

~~¶ 5-84~~ Re-assignment:

~~A. 1. If it is determined during an interactive process the ADA Coordinator determines that an ~~disabled~~ with a disability employee cannot be reasonably accommodated in his or her current position; and the employee expresses an interest in remaining employed with the City, and the employee's restrictions allow the employee to be reasonably accommodated in other positions, the OHR, with the assistance of the ~~department or agency,~~ ADA Coordinator, shall explore re-assignment to a vacant position as a possible reasonable accommodation. ~~A vacant position is one that has been requisitioned by an appointing authority to be filled~~~~

~~[MOVED FROM 5-84 F.1]~~

~~2. This determination shall be communicated in writing to the employee as soon as possible after it has been made.~~

3. The ***ADA Coordinator shall*** look for positions ***that are vacant and become vacant during the*** three (3) months ***immediately following this written communication***.

[MOVED FROM 5-84 F.2, p. 4 & F.9]

~~9.~~ Re-assignment is limited to existing vacant positions or to positions that become vacant in the Career Service within the three-month time period.

4. The ***ADA Coordinator shall*** terminate ***the IAP before the end of the three-month period*** if the employee withdraws his or her request for ***re-assignment, or if the employee accepts an IAP re-assignment***.

[MOVED FROM 5-84 F.2, PARAGRAPH 4]

~~7~~ **B.** Re-assignment shall not be ***is*** not ***available***:

~~7~~ **1.** To a position that constitutes a promotion. However, ***if the employee originally took a demotion as an ADA re-assignment, the ADA Coordinator may consider positions above the employee's current pay grade if the employee is eligible for re-promotion (as defined in this Rule 5) to that position and is able to perform the essential functions of that position with or without accommodations***. **[MOVED FROM 5-84 F.4]**

~~However,~~ This does not preclude an employee from applying for promotion ~~s~~ positions within the merit system within the ***Career Service***;

[MOVED FROM 5-84 F.7]

~~2~~ **8.** Re-assignment is only available To ***job applicants who are not*** current ***ly*** ***City*** employees and is not available to applicants.

[MOVED FROM 5-84 F.8]

~~11.~~ A re-assignment to an employee cannot be denied because he or she is designated as a probationary or temporary employee. However, a probationary or temporary employee must have performed the essential job functions, with or without reasonable accommodation, before being eligible for re-assignment.

[MOVED FROM 5-84 F.11]

C. **1.** The OHR first shall attempt ***ADA Coordinator's priority is*** to identify a vacant position ~~s~~ that is ***are*** equivalent ***to the employee's current position*** in terms of pay and benefits, ***first*** within the employee's department or agency, ***and then in*** ~~If none exist, the OHR shall attempt to identify a vacant position that is equivalent in terms of pay and benefits within another department~~ ~~s~~ or agency ***ies***.

[MOVED FROM 5-84 F.2, p. 2]

2. If no equivalent position ~~s~~ exists, the OHR shall attempt ***ADA Coordinator's next priority is*** to identify a ***vacant*** position ~~s~~ of lower pay and benefits, first in the employee's department or agency, and then in ~~an~~ another department ~~s~~ or agency ***ies***.

[MOVED FROM 5-84 F.2, p. 2]

3. If no vacant position ~~s~~ becomes available during the three-month re-assignment period, the ADA Coordinator shall terminate the IAP and disqualification proceedings may be initiated by the employee's department or agency.

[MOVED FROM 5-84 F.2, p. 2]

D. ~~1 3.~~ In identifying a vacant position to which a disabled employee may be re-assigned, the OHR The ADA Coordinator shall analyze the employee's specific experience, skills and background, and the specific job duties of the vacant position ~~by consulting with the department or agency in which the vacancy exists. If determined necessary, the OHR designee shall perform a job analysis of the vacant position.~~ The employee does not need to be the best-qualified individual for the position in order to be re-assigned to it.

[MOVED FROM 5-84 F.3]

2. The ADA Coordinator shall provide the employee with information about all vacancies for which the employee:

a. Meets the minimum education, experience and licensing or certification requirements; and

b. Is able to perform the essential functions with or without accommodations.

[MOVED FROM 5-84 F.2, p. 2]

3. The employee may express his or her preference regarding the selection of a re-assignment position. However, the OHR designee ADA Coordinator is free to choose the re-assignment position to be offered to the employee.

[MOVED FROM 5-84 F.2, p. 2]

E. During the interactive process An disabled employee with a disability may decline a demotion re-assignment position appointment that is a demotion and request that the OHR ADA Coordinator ~~to~~ continue looking for comparable vacant positions within the three-month time period. However, if an employee declines an offer of a transfer to a comparable position in terms of salary and benefits, the ~~the interactive process will cease~~ ADA Coordinator shall terminate the IAP and disqualification proceedings may be initiated by the employee's department or agency.

[MOVED FROM 5-84 F.2, p. 5]

F. A department or agency to which an ~~disabled~~ employee **with a disability** is being re-assigned is required to cooperate with the re-assignment process coordinated by the ~~OHR~~ **ADA Coordinator and accept the re-assignment of that employee through the IAP.** However, the department or agency may file a request to the OHR Executive Director to review the re-assignment placement within five (5) calendar days of the re-assignment notice if the department or agency reasonably believes that the employee will not be able to perform the essential functions of the position with or without reasonable accommodation.

[MOVED FROM 5-84 F.2, p. 2]

~~43~~ G. If an employee is re-assigned to either an equivalent or demotion position, the employee shall continue to receive the pay rate he or she earned in the former position unless this exceeds the range maximum of the pay range of the new classification, in which case the employee shall receive the range maximum of the pay range of the new classification.

[MOVED FROM 5-84 F.13]

H. ~~140.~~ 1. The department or agency shall take all necessary steps to train the re-assigned employee in the duties of the position re-assigned, as it would do with any new employee.

[MOVED FROM 5-84 F.10]

2. ~~If the employee is re-assigned to a vacant position, the~~ **Re-assigned** employees shall be provided any reasonable accommodation necessary for the employees s to perform the essential functions of the ~~re-assignment~~ **new** position.

[MOVED FROM 5-84 F.2, p. 3]

I. 1. If an ~~disabled~~ employee **with a disability** is re-assigned to a vacant position and the department or agency subsequently determines that the ~~disabled~~ employee **with a disability** is unable to perform the essential functions of the position, with or without reasonable accommodation, the **IAP** will be resumed from the beginning ~~and the OHR shall attempt to identify another vacant position to which the disabled employee can be re-assigned for a period not to exceed three (3) months. If an employee originally took a demotion, the OHR will look for positions at the original pay grade if the employee is able to perform the essential functions of that position with or without accommodations.~~

[MOVED FROM 5-84 F.4]

2. The **IAP** ~~interactive process~~ need not be resumed if the employee has performance problems in the position that are unrelated to his or her disability, or if the employee is dismissed as a corrective measure for misconduct.

[MOVED FROM 5-84 F.4]

5-85 Re-assignment of Classified Service employees

[MOVED FROM 5-84 F.12]

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

5-86 ADA Leave

[MOVED FROM 5-84 G]

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

5-87 Retaliation and Coercion:

[MOVED FROM 5-84 H]

- A.** It is a violation of this rule to discriminate against any individual because that individual has opposed any act or practice prohibited by this rule or because that individual filed a grievance or appeal, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing to enforce any provision contained in this rule.

- ~~2~~ **B.** It is a violation of this rule to coerce, intimidate, threaten, harass or interfere with any individual in the exercise or enjoyment of, or because that individual aided or encouraged any other individual in the exercise of, any right granted or protected by this rule (including, but not limited to, making a request for a reasonable accommodation).

5-88 Confidentiality and Record Keeping
[MOVED FROM 5-84 I]

Any medical information obtained **about an employee** during the ~~interactive process~~ regarding the medical history of an employee **IAP** shall be collected and maintained on separate forms and in separate files and be treated as confidential, except that:

- ~~4~~ **A.** Supervisors, managers, human resources personnel and other City employees involved in the ~~interactive process~~ **IAP** may obtain access to such information on a need to know basis.
- ~~2~~ **B.** Supervisors, managers, human resources personnel and other appropriate City employees may be informed regarding necessary restrictions on the work or duties of an employee and necessary accommodations.
- ~~3~~ **C.** First-aid and safety personnel may be informed, ~~when appropriate,~~ if the disability ~~might~~ require **s** emergency treatment.
- ~~4~~ **D.** Information may be given to the state workers' compensation offices, and state second injury funds, in accordance with the state workers' compensation laws.

~~APPENDIX 5.A.~~

~~RELEVANT PROVISIONS FROM THE CITY CHARTER, ARTICLE IX, EMPLOYMENT, PART 1, CAREER SERVICE~~

~~§ 9.1.1 Career Service personnel system.~~

~~E. The Career Service shall comprise all employees of the City and their positions except:~~

- ~~(i) elected officers;~~
- ~~(ii) members of the Mayor's cabinet;~~
- ~~(iii) the Director of Excise and Licenses;~~
- ~~(iv) up to fifty employees appointed to serve at the pleasure of the Mayor in positions specifically designated or created by the Mayor in any department or agency of the City under the direct control of the Mayor;~~
- ~~(v) county court judges and magistrates;~~
- ~~(vi) members of the Classified Service of the Police and Fire Departments, the Police Chief if not a member of the Classified Service, and the Under Sheriff;~~
- ~~(vii) attorneys and part-time employees employed by the District Attorney, other employees of the District Attorney excluded from the Career Service and placed in an alternate merit personnel system pursuant to state law, and up to ten employees appointed to serve at the pleasure of the District Attorney in positions specifically designated or created by the District Attorney in the District Attorney's office;~~
- ~~(viii) certified public accountants employed by the Auditor and up to five employees appointed to serve at the pleasure of the Auditor in positions specifically designated or created by the Auditor in the Auditor's Office;~~
- ~~(ix) employees of the Denver Art Museum, the Denver Museum of Nature and Science, the Denver Zoological Gardens, and the Denver Botanical Gardens;~~
- ~~(x) persons retained on a contractual basis to perform professional or technical services for limited periods of time;~~
- ~~(xi) employees of the City Council, Library Commission, Civil Service Commission, Board of Adjustment, and Denver Water; and~~
- ~~(xii) any hearing officers and up to two employees in positions specifically designated or created by the Career Service Board, appointed to serve at the pleasure of the Board.~~

~~(xiii) any employee appointed to serve at the pleasure of the mayor for the purpose of monitoring internal investigations and disciplinary actions in the Department of Safety, and any employees appointed by the monitor to serve at the pleasure of the monitor. The appointment of any monitor by the mayor pursuant to this or any other provision of the charter shall require confirmation by the city council.~~

~~(xiv) the Director of Elections and no more than one other employee in a position specifically designated or created by the Clerk and Recorder, appointed to serve at the pleasure of the Clerk and Recorder. Any employee of the Denver Election Commission as of July 16, 2007 and formerly excepted from the Career Service pursuant to this section shall retain his or her position as an employee of the Clerk and Recorder if the employee qualifies to retain the position in accordance with the rules of the Career Service Board.~~

~~**(xv) up to five employees appointed to serve at the pleasure of the Manager of Aviation in executive or other managerial positions in the Department of Aviation.**~~

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