

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. 520

A Career Service Board Public Hearing has been scheduled regarding proposed revisions to the Career Service leave rules.

The scheduled time for the public hearing is **THURSDAY, MAY 5, 2016, 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, MAY 2, 2016.**

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, MAY 2, 2016** to get on the agenda. **You are encouraged to submit written comments regarding the subject matter of your testimony at this time so that the Board has time to adequately consider your input.**

PLEASE POST ON ALL BULLETIN BOARDS

AS SOON AS POSSIBLE

RULE PROPOSAL 447B

TO: Appointing Authorities, Managers, and Employees

FROM: Karen Niparko, OHR Executive Director

DATE: April 21, 2016

SUBJECT: Proposed revision of Career Service leave rules

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

**THURSDAY, May 5, 2016, at 5:00 P.M.
Webb Building Room 4.G.2**

The Career Service Rules review project continues to make progress. The project will update the rules for the changes we've made in the city in recent years, remove duplication and redundancies, and consolidate rules wherever possible. The following information provides an update on the most recent rules change proposal. OHR is currently proposing revisions to the following Career Service Rules:

- Career Service Rule 10 **PAID LEAVE**
- Career Service Rule 11 **UNPAID AND EXTENDED LEAVE**

A public hearing has been scheduled before the Career Service Board on May 5, 2016 to consider this proposal and hear public comments about the proposed revisions. In addition to the revisions to Rules 10 and 11 summarized below, the OHR is taking parts of Rules 5 and 11 and creating a new Rule 12 **LEAVE FOR EXTENDED ILLNESSES AND INJURIES**.

Please refer to the following tables for information on the former rule description, the revised rule description and the intended impact of the revisions to Rules 10 and 11.

Rule 10 PAID LEAVE			
CURRENT RULE	REVISED RULE	NEW RULE NUMBER	REVISION INTENTION & IMPACT
'Domestic partner' definition is in Rule 1.	Moved to Rule 10.	10-11 B	Definition will be in the rule where the term is used.
Unnecessarily goes into great detail about who is covered.	Simplifies 'immediate family' definitions.	10-11 C	To shorten the lengthy 'immediate family' definition.
No current rule.	Describes applicability of Rule 10 to Deputy Sheriffs.	10-13	Clarifies area of the rules that is murky because of collective bargaining.
Ordinance provisions are quoted in boxes.	Eliminates boxes; ordinance language is incorporated into the body of the rule.	10-21 through 10-62	Improves flow of the rule.
Bereavement provisions contained in PTO and sick and vacation rules.	Separates bereavement section from PTO and sick and vacation sections.	10-50	Will be easier to find bereavement rule.
No current provision in court leave rule.	Expands court leave to cover situations where an employee is subpoenaed by the city to testify in court.	10-75 A.2	Supports city's interest in having necessary witnesses testify in court.

Rule 11 UNPAID LEAVE			
CURRENT RULE	REVISED RULE	NEW RULE NUMBER	REVISION INTENTION & IMPACT
No current rule.	Add section covering leave for victims of violence.	11-26	Creating specific rule provision to reflect state law and Executive Order requirements.
Required school-related parental leave.	Remove parental leave requirements.	None	Parental leave state law was eliminated by the legislature.
All unpaid leave provisions are contained in Rule 11.	Moved disability, Workers' Compensation, FMLA and ADA leave provisions to new Rule 12.	Rule 12	Puts rules dealing with extended absences due to illness or injury together in the same place.

Rule 12 LEAVE FOR EXTENDED ILLNESSES OR INJURIES			
CURRENT RULE	REVISED RULE	NEW RULE NUMBER	REVISION INTENTION & IMPACT
No current rule.	Contains ADA interactive process (IAP) rule from Rule 5; and disability, Workers' Compensation, FMLA and ADA leave rules from Rule 11.	Rule 12	Consolidates rules dealing with extended absences due to illness or injury together in the same place.
City FMLA leave covers care for immediate family members that is not required by Federal law.	New rule will be more consistent with FMLA in that FMLA leave for care of family members will only cover spouses, domestic partners, children and parents.	12-21	Significantly reduces employee ability to take 12 weeks of city FMLA in addition to 12 weeks of Federal FMLA.
City cannot begin IAP until after an employee with a Workers' Compensation claim reaches Maximum Medical Improvement (MMI).	Allows the city to start IAP before an employee has reached MMI if it is determined that the employee will not be able to return to work.	12-36 C	Shortens the period of time before a disqualification can begin for employees who will never be able to return to work.

ATTACHED BELOW YOU WILL FIND:

- **Rule 10 – clean version**
- **Rule 11 – clean version**
- **Rule 12 – clean version**
- **Rule 5 – strikethrough version**
- **Related rules – strikethrough version**
- **Rule 10 – strikethrough version**
- **Rule 11 – strikethrough version**
- **Rule 12 – strikethrough version**

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

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.

RULE 10 PAID LEAVE

Purpose statement:

The purpose of this rule is to provide guidelines and policies for administering the City's paid leave programs. **For rules regarding leave for extended illnesses or injuries see Rule 12 LEAVE FOR EXTENDED ILLNESSES OR INJURIES.**

Section 10-10 **General**

10-11 Definitions

- A. **Leave:** Any absence during regularly scheduled work hours. The following types of paid leave are **covered in this rule:**
1. Paid time off ("PTO");
 2. Sick and vacation;
 - 3. Bereavement**
 - 4.** Holiday;
 - 5.** Compensatory;
 - 6.** Administrative;
 - 7.** Military;
 - 8.** Election;
 - 9.** Court;
 - 10.** Investigatory;
 - 11.** Training;
 - 12.** Occasional time off.
- B. Domestic Partner: An unmarried adult, unrelated by blood (closer than would prohibit marriage in Colorado pursuant to the Colorado Revised Statutes); with whom an unmarried employee has an exclusive committed relationship, maintains a mutual residence and shares basic living expenses.**

C. Immediate family: **Spouse, child, parent, grandparent,** grandchild, **sibling,** son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, domestic partner, and the **parent, child, or sibling** of the domestic partner, as well as minor children for whom the employee or the employee's domestic partner provide day-to-day care and financial support.

10-12 Designees

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

10-13 Applicability to Deputy Sheriff Classifications

None of the provisions of this Rule 10 (except election leave, donated leave and investigatory leave) shall apply to Career Service employees who hold positions in classifications in the Sheriff pay schedules (Deputy Sheriff, Deputy Sheriff Sergeant, Deputy Sheriff Captain, Deputy Sheriff Major, and Deputy Sheriff Division Chief).

10-14 References to the Denver Revised Municipal Code (“DRMC”)

This Rule 10 incorporates parts of the DRMC solely for informational purposes as a convenience to readers of this rule. Excerpts from the DRMC will be clearly identified as such and are not intended to be made a part of this rule. DRMC excerpts include a reference to the applicable section and are labeled “Source: DRMC § ____.” Should the applicable provisions of the DRMC change, the reference to the that provision in this Rule 10 may be changed without going through the rule change process described in Rule 2 OFFICE OF HUMAN RESOURCES. In case of a conflict between the DRMC and the provisions of this rule, the DRMC will prevail.

Section 10-20 Paid Time Off (“PTO”)

10-21 Eligibility

All eligible Career Service employees hired or re-employed by the City after December 31, 2009 shall receive PTO with the exception of:

- A. **Part-time employees who are regularly scheduled to work less than twenty (20) hours per week; and**
- B. **Employees occupying on-call positions.**

Source: D.R.M.C. §18-123

10-22 PTO Allowance

A. The amount of PTO earned by eligible full-time employees shall be calculated as follows:

	<u>Years of consecutive service</u>				
	<u>0 < 0.5</u>	<u>0.5 < 5</u>	<u>5 < 10</u>	<u>10 < 15</u>	<u>> 15</u>
<u>PTO hours earned per month</u>	<u>10</u>	<u>12</u>	<u>15</u>	<u>18</u>	<u>19</u>

B. A proportionate amount shall be allowed eligible employees working part-time.

Source: D.R.M.C. §18-125

10-23 Partial Leave Accruals

Full-time employees, eligible to earn PTO:

- A. Who begin employment with the City after the first day of a month; or
- B. **Whose leave accruals stopped because of an extended absence from work and return to work after the first day of a month; or**
- C. Who separate from employment with the City before the last day of a month

Shall earn PTO in that particular month according to the following pro-ration schedule:

Hrs. worked (including pd. lv) in the month	Years of service				
	≤ 0.5	0.5 < 5	5 < 10	10 < 15	≥15
0-39	0	0	0	0	0
40-79	2.5	3	3.75	4.5	4.75
80-119	5	6	7.5	9	9.5
120-139	7.5	9	11.25	13.5	14.25
>140	10	12	15	18	19

PTO hours earned

10-24 Situations Where Approval of PTO Use is not Required

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

10-25 All Other PTO Uses

- A. All other uses of PTO require the approval of the employee's appointing authority.
- B. Appointing authorities shall approve such requests to use PTO on the basis of the work requirements of the agency after conferring with employees and recognizing their wishes where possible. Preference in the scheduling of pre-approved PTO shall be given to employees in order of their total length of continuous employment in the Career Service; provided, however, that an employee who has been re-instated or re-employed following a lay-off shall be given credit for the period of continuous employment in the Career Service prior to the lay-off.

10-26 Maximum Accumulation and Pay-out of PTO

- A. PTO earned by an employee shall be deposited in his or her PTO bank. PTO may not be accumulated in the PTO bank in excess of four hundred (400) hours.**

Source: D.R.M.C. §18-124 and 127(a)

- B. Exceeding the PTO Accumulation Limit:**

Ordinarily an employee at the PTO leave accumulation limit of four hundred (400) hours cannot accumulate any additional PTO. However, if the appointing authority is unable to allow an employee who has accumulated the maximum hours of PTO to use PTO because of workload, the appointing authority shall request that the OHR Executive Director allow the employee to exceed the maximum amount. The employee must use the excess over four hundred (400) hours in the employee's PTO bank within one year of the approval date.

C. Employees who elected to voluntarily convert from sick and vacation leave to PTO leave on February 1, 2010 were required to convert their sick and vacation leave balances into a special leave bank. PTO used by an employee shall be debited from the employee's PTO bank first unless it has been exhausted or if the employee requests that the special leave bank be used first. This special leave bank cannot:

1. Exceed 400 hours; or

2. Be replenished.

Source: D.R.M.C. §18-124

D. Upon separation, a PTO recipient shall be paid at his or her regular rate of pay for the unused portion of his or her accumulated PTO bank and special bank if applicable.

Source: D.R.M.C. §18-127(b)

Section 10-30 Sick and Vacation Leave

10-31 Eligibility

All eligible Career Service employees who:

A. Were receiving paid sick and vacation leave on December 31, 2009;

B. Remain continuously employed by the city; and

C. Have not voluntarily elected to receive PTO benefits:

Shall be entitled to continue to receive paid sick and vacation leave so long as the officer or employee does not become:

A. A part-time employee who is regularly scheduled to work less than twenty (20) hours per week; or

B. An employee occupying an on-call position.

Source: D.R.M.C. §18-131

10-32 Sick and Vacation Leave Allowance

A. Eligible full-time employees shall accrue eight (8) hours of sick leave every month.

B. The amount of vacation leave earned by eligible full-time employees shall be calculated as follows:

<u>Years of consecutive service</u>				
	<u>0 < 5</u>	<u>5 < 10</u>	<u>10 < 15</u>	<u>>15</u>
<u>Vacation hrs. earned per month</u>	<u>8</u>	<u>10</u>	<u>12</u>	<u>14</u>

C. Employees working part-time shall accrue a proportionate amount.

Source: D.R.M.C. §18-132

10-33 Partial Leave Accruals

Full-time employees, eligible to earn sick **and vacation** leave:

- A. Who begin employment with the City after the first day of a month; or
- B. **Whose leave accruals stopped because of an extended absence from work and return to work after the first day of a month; or**
- C.** Who separate from employment with the City before the last day of a month

Shall earn sick **and vacation** leave in that particular month according to the following pro-ration schedule:

<u>Hrs. worked (including pd. lv) in the month earned</u>	<u>Vacation hours earned</u>				<u>Sick hrs.</u>
	<u>Years of service</u>				
	<u>0 < 5</u>	<u>5 < 10</u>	<u>10 < 15</u>	<u>>15</u>	<u>N/A</u>
<u>0-39</u>	0	0	0	0	0
<u>40-79</u>	2	2.5	3	3.5	2
<u>80-119</u>	4	5	6	7	4
<u>120-139</u>	6	7.5	9	10.5	6
<u>≥140</u>	8	10	12	14	8

10-**34** Using Sick *and Vacation* Leave

A. *Sick leave:*

1. Sick leave may be used when an employee is incapacitated by sickness or injury; for medical examinations, or treatment; for necessary care and attendance during sickness, or for death, of a member of the employee's immediate family, for qualifying conditions under the FMLA and as otherwise provided in these rules.
2. Absences from work because of authorized medical examinations or treatment related to an occupational injury or occupational disease arising out of and within the course and scope of employment with the City for which the City has admitted liability or has agreed to permit medical treatment while investigating the claim shall be treated as time worked. The employee shall make a reasonable effort to schedule the examination or treatment so as not to unduly disrupt the operations of the department or agency.

B. Vacation leave:

Vacation leave shall be taken at a time convenient to the department or agency, The department or agency will confer with employees and recognize their wishes where possible. Preference in the scheduling of vacation time shall be given to employees in order of their total length of continuous employment in the Career Service; provided, however, that an employee who has been reinstated or re-employed following a lay-off shall be given credit for the period of continuous employment in the Career Service prior to the lay-off.

Source: D.R.M.C. §18-132(b)(2)

10-**35** Limits on *Sick and Vacation* Leave Accumulation

- A. Sick leave may be accumulated to a limit of nine hundred sixty (960) working hours. When the accumulation exceeds eight hundred eighty (880) working hours, an employee may request that accumulated sick leave in excess of the eight hundred eighty (880) working hours be converted to vacation leave. Such conversions are in addition to the monthly amount of vacation leave allowed by this section. Employees may not convert sick leave to vacation leave if such a conversion would result in the employee's accumulated vacation leave exceeding the limits allowed by this Rule 10.*

Source: D.R.M.C. §18-132(a)(2)

B. 1. Employees with up to ten (10) years of service may accumulate up to two hundred eighty-eight (288) hours of vacation leave. Employees with ten (10) or more years of service may accumulate up to three hundred thirty-six (336) hours of vacation leave.

2. Exceeding the Vacation Accumulation Limit:

Ordinarily an employee at the vacation leave accumulation limit cannot accumulate any additional vacation leave. However, if the appointing authority is unable to allow an employee who has accumulated the maximum hours of vacation leave to use vacation leave because of workload, the appointing authority shall request that the OHR Executive Director allow the employee to exceed the maximum amount. The employee must use the excess over the vacation leave accumulation limit within one year of the approval date.

10-36 Sick and Vacation Leave Pay Upon Separation

A. Sick leave:

1. The following table applies to the pay-out of sick leave upon separation for any reason other than death or retirement:

<u>Full years Of service</u>	<u>Payout formula</u>
<u><5</u>	<u>No pay out</u>
<u>5</u>	<u>Sick leave balance minus (5 X 40 hrs.) or 200 hrs.</u>
<u>6</u>	<u>Sick leave balance minus (6 X 40 hrs.) or 240 hrs.</u>
<u>7</u>	<u>Sick leave balance minus (7 X 40 hrs.) or 280 hrs.</u>
<u>8</u>	<u>Sick leave balance minus (8 X 40hrs.) or 320 hrs.</u>
<u>9</u>	<u>Sick leave balance minus (9 X 40hrs.) or 360 hrs.</u>
<u>>10</u>	<u>Sick leave balance minus (10 X 40hrs.) or 400 hrs.</u>

2. Upon separation due to retirement or death, an employee shall be paid at his or her regular rate of pay for one-half (1/2) of all accumulated sick leave credits existing on the effective date of separation or death, or in accordance with the method described above, whichever is higher, but not to exceed five hundred sixty (560) working hours.

B. Vacation leave:

Employees shall be paid at their regular rate of pay for the unused portion of their accumulated vacation leave upon separation from employment.

Source: D.R.M.C. §18-134

Section 10-40 Administration of Paid Time Off and Sick and Vacation Ordinances

10-41 Effect of Appointment to Another a Career Service Position

When an employee is appointed to a Career Service position from any other City department or agency which is governed by the PTO ordinance or the sick and vacation ordinance, the employee's paid leave credits shall be transferred to the new position, so long as there is no break in service.

Source: D.R.M.C. §18-126 & §18-133

10-42 Length of Service

In computing length of service for the purpose of determining an employee's PTO or vacation leave accrual rate, service in a **paid** position in any City department or agency other than the Classified Service of Police and Fire, the Denver Water Board, on-call positions, and **contract** positions, shall be counted as service, provided such service was performed continuously, immediately prior to the employee's employment or re-employment appointment to the Career Service.

10-43 Using Paid Leave

- A. The amount of PTO or sick and vacation leave used shall be the amount of time an employee is **absent from his or her scheduled shift(s)**.
- B. PTO or sick and vacation leave shall not be used before it is **accrued and** posted to the employee's account.
- C. Employees may take PTO, sick leave, and vacation leave in increments of at least fifteen (15) minutes.**

10-44 Reporting and Investigation of Leave **Used for Sickness or Injury**

- A. If an employee is absent for reasons that entitles the employee to use PTO **or sick leave** without appointing authority approval, the employee or a member of the employee's household shall notify the employee's supervisor as soon as possible but at least within two (2) hours after the employee's usual reporting time. Appointing authorities may establish reporting procedures which differ from the standard for an entire agency, for specific units, or for individual employees in order to meet special program needs or workloads.
- B. If an employee fails to notify the employee's supervisor or agency head, no PTO or sick leave shall be authorized, except in unusual circumstances, to be determined by the appointing authority.

- C. Appointing authorities may investigate the alleged illness of an employee using PTO or sick leave without appointing authority approval. False or fraudulent use of PTO or sick leave shall be cause for disciplinary action and may result in dismissal.
- D. An employee who is using PTO or sick leave for more than three (3) days because of his or her own illness or that of a member of his or her immediate family may be required to furnish a statement signed by attending physician, or other proof of illness satisfactory to the appointing authority. An appointing authority may require this statement or proof for an absence chargeable to PTO or sick leave without appointing authority approval, of any duration. If an appointing authority, supervisor, or employee has reason to believe that the absence may be a qualifying event under the FMLA, he or she should contact human resources.

10-45 Donating Leave

- A. A Career Service employee may donate sick leave to another Career Service employee provided that the employee donating sick leave:
 - 1. Has been earning sick leave from the City continuously for the last five years; and
 - 2. Retains a sick leave balance of at least two hundred forty (240) hours after the donation.
- B. A Career Service employee may donate PTO to another Career Service employee provided that the employee donating PTO retains a PTO balance of at least eighty (80) hours after the donation.
- C. A Career Service employee may donate PTO or sick leave to a non-Career Service City employee provided that the recipient employee's department or agency and any applicable collective bargaining agreement allow employees to receive donations of leave from Career Service employees and provided that the applicable donor requirements have been met.
- D. A Career Service employee may donate PTO or sick leave to, or receive donated sick leave from, an employee covered by the ~~Under~~ Sheriff pay schedule s to the extent permitted by the applicable collective bargaining agreement and provided that the donor and recipient requirements applicable to the non-~~Under~~ Sheriff employee have been met.

E. Recipient requirements:

1. Before an employee can receive donated leave, the employee (or the employee's representative) must provide notice to the Department of Finance that the employee anticipates a need for donated leave. Such notice shall estimate how much donated leave the employee expects to use in the current calendar year. Should the employee need more donated leave beyond the original estimate, the employee shall provide notice of this to the Department of Finance before the employee can receive additional donations.
2. In order to use donated leave, an employee must:
 - a. Have exhausted his or her accumulated compensatory time, sick leave and vacation leave or PTO, be absent from work and;
 - i. Be receiving **salary continuation leave**, or temporary disability benefits under the provisions of the Workers' Compensation Act. In either of these situations, the employee may only use donated leave to make up the difference between the employee's base salary, and the total of other paid leave received and the temporary disability benefits the employee is receiving;
 - ii. Be receiving FMLA leave;
 - iii. Be receiving ADA leave; or
 - iv. Have received written notice of a contemplation of disqualification meeting. The employee may use donated leave until disqualification occurs or until the end of the period in which a decision on disqualification must be issued, whichever occurs first.
3. Donated leave can be used to cover absences that occur up to fifteen (15) calendar days before the leave was posted to a recipient's account so long as the other conditions of this section have been met.
4. A Career Service employee may receive donated leave from a non-Career Service City employee provided that the donor employee's department or agency allows employees to donate leave to Career Service employees and that the recipient requirements listed above have been met.
5. Employees who are eligible to receive donated leave may receive either donated PTO or donated sick leave regardless of whether the employee is enrolled in the PTO or sick and vacation leave plan.

- F.** Employees cannot use more than six hundred (600) hours of donated leave in a calendar year. Employees cannot receive donated leave to the extent that the donated leave will increase the employee's PTO or sick leave bank over the applicable maximum accumulation limit.
- G.**
1. The amount of donated leave to be credited to the recipient's account shall be computed as follows:
 - a. Multiply the number of hours of leave being donated by the hourly rate of pay of the donor employee;
 - b. Divide the result by the hourly rate of pay of the recipient; and
 - c. Round the result down to the closest full hour.
 2. The computations made in paragraph **D.** **G.**1. shall be reported to the Department of Finance in accordance with procedures to be established by that office.
- H.** Recipients of donated leave are not entitled to receive pay upon separation for unused donated leave. Unused donated leave may not be donated to another employee or returned to the donor.

10-46 Effect of Separation on Leave Accrual

Employees shall not earn PTO or sick and vacation leave after the employee's last day as a City employee. Rule 14 **SEPARATION OTHER THAN DISMISSAL** and Rule 16 **CODE OF CONDUCT AND DISCIPLINE** provide this date for dismissals and other types of separations.

10-47 Re-instated Employees

Employees who were laid off while receiving paid sick and vacation leave benefits, and are re-instated under the Career Service Rules after December 31, 2009, will be enrolled in the PTO plan unless they elect in writing to continue in the paid sick and vacation plan. Such election must be made within thirty (30) days of the effective date of their reinstatement.

Source: D.R.M.C. §18-123 (c)

10-**48** Effect of Re-instatement and Re-employment on PTO and Sick Leave Balance

An employee who is re-instated after a lay-off shall have sick leave that he or she was not paid for at the time of separation restored as follows:

- A. Employees who are enrolled in the PTO plan upon re-instatement may be able to convert sick leave that was lost at the time of lay-off to the special PTO bank. The amount that may be converted is based on the employee's accumulated sick leave at the time of separation. Up to one-half of this amount may be converted to the special PTO bank;
 - 1. So long as the amount converted does not exceed four hundred (400) hours; and
 - 2. After the sick leave the employee was paid for at the time of separation is deducted from this amount.
- B. Employees who elect to receive sick and vacation leave after re-instatement shall have all sick leave that he or she was not paid for at the time of separation restored to the employee's sick leave bank.
- C. An employee who is re-employed while his or her name is on a re-instatement list shall also be entitled to restoration of eligible sick leave under the terms of this subsection.

Section 10-50 Bereavement Leave

A. Employees receiving PTO:

Employees who receive PTO benefits shall be granted up to forty (40) hours of paid bereavement leave because of the death of a member of the employee's immediate family. This forty (40) hours of bereavement leave shall not count against the employee's PTO bank.

Source: D.R.M.C. §18-128

B. Employees receiving sick leave:

Employees receiving sick leave shall be entitled to use up to forty-eight (48) hours of sick leave because of the death of a member of an employee's immediate family.

C. Additional Bereavement Leave

An appointing authority may grant additional paid or unpaid leave **for bereavement.**

Section 10-60 Paid Holiday Leave

10-61 Eligibility

A. All eligible Career Service employees shall receive paid holiday leave benefits as provided in these rules, with the exception of:

- 1. Part-time employees who are regularly scheduled to work less than twenty (20) hours per week; and**
- 2. Employees occupying on-call positions.**

Source: D.R.M.C. §18-141

B. Unless otherwise provided in **these rules**, an eligible employee must be at work or on an authorized, paid leave on the scheduled workdays immediately preceding and immediately following the day on which the holiday is observed in order to receive paid holiday leave.

C. Religious or other holidays not observed by the City may be granted in accordance with the rules governing paid and unpaid leave.

10-62 Designation of holidays

"Holidays" for the purposes of this rule shall mean eight (8) hours in the following days:

- A. New Year's Day (January 1);
- B. Martin Luther King Day (third Monday in January);
- C. Washington's Birthday (observed on the third Monday in February);
- D. Cesar Chavez Day (last Monday in March);
- E. Memorial Day (last Monday in May);
- F. Independence Day (July 4);
- G. Labor Day (first Monday in September);
- H. Veterans' Day (November 11);
- I. Thanksgiving Day (fourth Thursday in November);
- J. Christmas Day (December 25);
- K. Personal holiday (one (1) personal holiday on date agreed upon by employee and the city to be used within the calendar year).

Source: D.R.M.C. §18-142

10-63 Observation of Holiday

- A. Subject to the following provisions, all offices, agencies, commissions and departments of the city are hereby authorized and directed to grant to employees, with pay, the previously designated holidays.
 - 1. If any of the holidays shall fall upon a Sunday, then the Monday following shall be considered as the holiday. If any of the holidays shall fall upon a Saturday, then the preceding Friday shall be considered as the holiday.
 - 2. An employee may be required to work on a holiday in order to maintain essential services to the public.

Source: D.R.M.C. §18-143

B. When a holiday falls on an employee's regular day off, it shall be observed as follows:

1. If the holiday falls on the first day off, it shall be observed on the preceding workday.
2. If the holiday falls on the second or third regular day off, it shall be observed on the next workday.

C. Appointing authorities who require an employee to work on an observed holiday may schedule the employee's paid holiday leave to be taken on another day during that holiday week as long as the employee is provided with adequate notice of this change in advance of the holiday week.

10-64 Amount of Paid Holiday Leave Received

- A. An eligible full-time employee shall receive eight (8) hours of paid holiday leave in a week in which a holiday occurs.
- B. An eligible part-time employee regularly scheduled to work at least twenty (20) hours per week shall receive paid holiday leave as follows:
 1. An employee who is regularly scheduled to work from twenty (20) to twenty-nine (29) hours per week shall receive four (4) hours of paid holiday leave.
 2. An employee who is regularly scheduled to work from thirty (30) to thirty-nine (39) hours per week shall receive six (6) hours of paid holiday leave.

10-65 Holiday Pay for Employees on Special Work Schedules

If the holiday falls on an employee's regularly scheduled work day and the work day is scheduled to be more than eight hours long, one of the following choices shall be selected by the employee, subject to approval by the appointing authority, to make up for the difference between the length of the work day missed and the eight hours of paid holiday leave allowed:

- A. Hours may be deducted from the employee's administrative leave granted for exemplary performance, earned compensatory time, earned paid time off, or earned vacation leave;
- B. The employee may work additional hours within the work week; or
- C. The employee may take the hours as unpaid leave.

10-66 Compensation for Hours Worked in a Holiday Week

- A. In a week in which a holiday occurs, full-time employees receive eight hours of holiday leave and are expected to work (or use leave) for the remaining thirty-two (32) hours. Part-time employees are expected to work (or use leave) during the time left after the employee's paid holiday leave is deducted from the hours they are normally expected to work in a week.
- B. In addition, employees in classifications in exempt pay schedules shall receive straight time holiday compensatory time for the hours the employee actually works:
 - 1. a. On the day the employee is scheduled to observe the holiday that week, or
 - b. On any of his or her scheduled days off in a week when a holiday occurs; and

The employee is not entitled, under Rule 9 **PAY ADMINISTRATION**, to receive overtime for working on the holiday or regularly scheduled day off in that holiday week.

- 2. In no event shall an employee receive more hours of holiday compensatory time than the employee would have been entitled to receive as paid holiday leave in a holiday week.
- 3. Employees shall only receive holiday compensatory time to the extent that the combination of hours worked and paid leave used (including paid holiday leave) during a holiday week exceeds forty (40) hours.
- 4. At the discretion of the appointing authority, straight time pay may be substituted for the holiday compensatory time. Holiday compensatory time may be taken at any time mutually convenient to the employee and the appointing authority. However, all accrued holiday compensatory time shall be used by March 31st of each calendar year or paid out in cash by the final pay period of April of that year.

Section 10-70 Other Paid Leave

10-71 Compensatory Time

Compensatory time earned under the provisions of Rule 9 **PAY ADMINISTRATION** may be taken at any time mutually convenient to the employee and the appointing authority. However, all accrued compensatory time shall be used by March 31st of each calendar year or paid out in cash by the final pay period of April of that year.

10-~~72~~ Administrative Leave

- A. Appointing authorities shall grant paid administrative leave for the following purposes:
1. To present grievances or appeals to an official of the City or to represent an employee presenting a grievance or an appeal. However, if flexibility exists as to the exact date and time, the leave shall be granted at the convenience of the appointing authority;
 2. To participate in the Career Service Mediation Program. Administrative leave shall be granted to employees who participate in mediation either as a party or as the mediator; or
 3. To represent another City employee at meetings with that employee's supervisor or manager, as set forth in Rule **16 CODE OF CONDUCT AND DISCIPLINE**. The representative shall be allowed to take up to a maximum of four (4) hours of administrative leave per pay period so long as the use of such leave does not adversely affect the representative's department or agency and has been approved in advance **by the employee's supervisor.**
- B. Appointing authorities may grant paid administrative leave for the following purposes:
1. To compete for positions in the Career Service, including all related interviews and examinations;
 2. To reward exemplary performance, such as Employee of the Quarter, Employee of the Year, or if the appointing authority wishes to recognize an employee's outstanding contribution to the agency. The appointing authority may grant, and an employee may use up to twenty (20) hours of administrative leave per calendar year for exemplary performance; or
 3. When the appointing authority deems there is a business necessity, for a maximum of ten (10) calendar days per calendar year. The appointing authority may request an extension of up to twenty (20) calendar days from the OHR Executive Director. The OHR Executive Director may approve the request for an extension for good cause shown.

Granting or failing to grant administrative leave under this paragraph B shall not be subject to grievance or appeal.

10-**73** Paid Military Leave

- A. All probationary and career status employees in the Career Service shall be eligible for up to fifteen (15) days, but not to exceed one hundred twenty (120) hours of paid military leave each calendar year for the time the employee is engaged in military training or service.
- B. Notification Requirement: Employees engaged in military service or training requiring military leave shall provide notice in advance to their appointing authority, when possible. If the employee is unable to provide advance notice because of military necessity, the employee may give notice after starting duty.
- C. Employees who continue in military service beyond the time for which paid military leave is allowed shall be placed on unpaid military leave, which is covered by Rule 11 **UNPAID LEAVE**.

10-**74** Election Leave

Employees who are eligible to vote in an election are entitled to use up to two (2) hours of paid election leave for the purpose of voting during the time the polls are open, if an employee's work hours on the day of an election are such that there are less than three (3) hours between the time of opening and the time of closing of the polls during which the employee is not required to be on the job. Employees must request and receive approval for the leave prior to the election day. The appointing authority may specify the hours during which the employee may be absent, except that the employee shall be allowed to take the election leave at the beginning or end of the work shift if requested.
Source: C.R.S. §1-7-102

10-**75** Court Leave

- A. An employee shall be granted paid court leave during time the employee is regularly scheduled to work, if the employee is:
 - 1. Required to serve as a juror in a court of law;
 - 2. Subpoenaed by the City and County of Denver to testify in a court of law;**
 - 3.** Subpoenaed to testify in **a** court of law or administrative proceeding concerning matters arising out of the course of his or her employment; or
 - 4.** Requested to serve as a witness in a court of law or administrative proceeding by his or her appointing authority or other authorized person to represent the City's interest in the legal proceedings.

- B. Court leave is intended only to apply to those time periods when the employee is needed for court service and for reasonable travel time between court and work.
- C. In order to receive court leave, an employee who is called for jury duty or to serve as a witness shall present the original summons or subpoena from the court to his or her supervisor and, at the conclusion of such duty, a signed statement from the Clerk of the Court or other evidence showing the actual time of attendance at court.
- D. Fees received for jury service in a Federal, State, or Municipal court shall be in addition to, and irrespective of, an employee's regular salary.

10-~~76~~ Investigatory Leave

An appointing authority may place an employee on paid investigatory leave pending an investigation of a possible rule violation or failure to meet standards of performance as provided in Rule 16 **CODE OF CONDUCT AND DISCIPLINE**. Investigatory leave may be for no more than forty-five (45) calendar days, unless an extension of time has been approved by the OHR Executive Director.

10-~~77~~ Training Leave

- A. Appointing authorities may grant paid training leave. Any training program for which such leave is granted must be job-related, which includes career development training that will prepare the employee for advancement with the City.
- B. Appointing authorities may grant training leave for the purpose of attending institutes, seminars, or educational courses related to an employee's work for extended periods of time, at the appointing authority's discretion.
- C. Appointing authorities shall allow paid trainees and paid interns to arrange their work schedule if they need to attend classes during normal working hours. Paid trainees 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 training or internship period. (Revised November 18, 2015; Rule Revision Memo 15D)
- D. Use of training leave by employees shall be arranged whenever possible during regularly scheduled work hours. Appointing authorities who require attendance at training activities during off-duty hours that are designed to increase the competencies, knowledge, skills and abilities of employees for the position which they presently occupy shall temporarily change the affected employee's standard work hours to include the training schedule. Employees who are required to attend such training during off-duty hours shall be granted paid training leave for the time spent in training.

- E. For the purposes of this subsection, on-line training courses shall be treated the same as classroom training sessions.
- F. Employees must present proof of attendance at any training for which they are authorized to receive training leave.

10-~~78~~ Occasional Time Off

Exempt employees may be allowed paid occasional time off to attend to personal affairs, at the discretion of the appointing authority.

RULE 11 UNPAID LEAVE

Purpose statement:

The purpose of this rule is to provide guidelines and policies for administering unpaid leave. For rules regarding extended illness or injury leave please see Rule 12 LEAVE FOR EXTENDED ILLNESSES OR INJURIES.

Section 11-10 Leave Defined

Leave: Any absence during regularly scheduled work hours. The following types of unpaid leave are covered in this rule:

- A. Authorized;
- B. Unauthorized;
- C. Leave for victims of violence;
- D. Budget-required furlough;
- E. Military (unpaid).

Section 11-15 Designees

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

Section 11-20 General Provisions

11-21 Authorized Unpaid Leave

Appointing authorities may permit the use of unpaid leave by employees who either do not have paid leave available or who have requested permission to use unpaid leave when it is in the interest of the City to do so.

11-22 Unauthorized Unpaid Leave

A. Absences from work shall be treated as unauthorized, unpaid leave:

- 1. When an employee has not requested permission to use a type of leave for which permission is required; or**
- 2. When a leave request has been denied; or**
- 3. When an employee has not complied with reporting procedures; or**
- 4. Which are not otherwise authorized under these rules.**

B. Employees on unauthorized, unpaid leave may be subject to discipline, up to and including dismissal.

11-23 Exempt and Non-exempt Employees

A. An exempt employee on unpaid leave shall have his or her pay reduced on an hourly basis for the duration of the absence when the absence is less than a day and is due to sickness or personal reasons, and:

- 1. The employee did not request leave; or**
- 2. A request for leave was denied; or**
- 3. The employee has no available leave; or**
- 4. The employee requested, and was granted unpaid leave.**

B. Non-exempt employees on unpaid leave shall receive no pay for the duration of the absence.

11-24 Maintenance of Benefits During Extended Absences

This section applies to the maintenance of benefits during extended absences except as otherwise provided in these rules.

A. First *Thirty* Days of Unpaid Leave:

The first thirty (30) consecutive calendar days of **authorized**, voluntary **unpaid** leave in a calendar year, shall have no effect on the following:

1. City contributions to health, dental, and life insurance; or
2. **Accrual of paid time off** (PTO), sick and vacation leave, and holiday eligibility.

B. After **Thirty** Days but Before **One Hundred and Eighty-one** Days:

After the first thirty (30) consecutive calendar days of **authorized**, voluntary **unpaid** leave **in a calendar year**:

- 1.** City contributions to health, dental, and life insurance shall be discontinued, except for **employees on Family and Medical Leave Act ("FMLA")** leave; **and**
- 2.** **Employees will no longer be able to earn PTO, sick and vacation leave, or paid holidays.**

C. After **One Hundred and Eighty** Days:

After the first one hundred and eighty (180) consecutive calendar days of **authorized**, voluntary **unpaid** leave, City contributions to health, dental, and life insurance shall be discontinued **for all employees**.

- D.**
 - 1.** **An employee may pay the cost of continuing his or her health, dental, and life insurance, as well as any supplemental insurance coverage(s), such as vision and supplemental life insurance, during extended absences from work by:**
 - a.** **Depositing the amount due with the OHR every month;** or
 - b.** Taking at least one day of paid leave from which the **amount due** shall be deducted.
 - 2.** **An employee's failure to pay the cost of continuing insurance coverage** shall result in the discontinuance of such insurance.

11-25 Other Provisions Regarding Extended Unpaid Leave

A: A **period of unpaid** leave shall not constitute a break in service.

B. **A period of unpaid** leave **lasting longer** than one hundred and eighty (180) consecutive calendar days **and occurring** during **an employee's** probationary period shall not be counted as part of that period. **The employee to whom such leave has been granted will resume his or her probationary period upon returning from the period of unpaid leave.**

C. **At the expiration of a period of unpaid leave, the employee shall return to the position and classification he or she held before going on leave. Failure to report promptly at the expiration of a period of unpaid leave shall be considered to be a resignation.**

11-26 Leave for Victims of Violence

Employees may use up to three days of unpaid leave to address issues arising from violence the employee has suffered (as defined in Executive Order 112), including but not limited to, obtaining a restraining order, obtaining medical care or counseling, locating safe housing, or preparing for or attending legal proceedings. The employee may elect to use available paid leave, instead of unpaid leave, to cover the absence. Appointing authorities may authorize the use of additional leave, or temporarily adjust an employee's work schedule to allow a victim of violence to obtain necessary medical care, housing, counseling, legal, or other related assistance.

11-27 Budget Required Furlough

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

- A. This Rule is intended to comply with the Fair Labor Standards Act regulation 29 C.F.R. § 541.710, which permits furloughs for budgetary reasons without affecting the exemption status of an overtime exempt employee except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.
- B. Furloughs of overtime exempt employees may be taken in work day or workweek increments. During the workweek in which an overtime exempt employee takes one or more furlough days, the furlough hours taken and the hours worked plus any leave taken by the exempt employee should not total more than forty (40) hours. A work day is eight (8) hours for the purposes of this rule.
- C. Furloughs of non-exempt employees need not be taken in work day or work week increments but cannot be taken in less than two (2) hour increments.
- D. The Mayor may exempt certain employees from a mandatory furlough in order to maintain essential City services or for other necessary business reasons.
- E. During the period of time in which the Mayor has declared mandatory furloughs, employees may take additional voluntary furlough days with the prior approval of the employee's appointing authority. Except as otherwise provided, the same rules apply to voluntary furloughs that apply to mandatory furloughs.

F. **Maintenance of** benefits:

An employee on a furlough is entitled to:

- a.** **Have the City continue paying its share of the employee's health, dental, and life insurance premiums.**
- b.** **Earn PTO, or sick and vacation leave, and**
- c.** **Receive paid holiday leave for holidays observed during a furlough. During the first thirty consecutive calendar days of a furlough, furlough days will be treated as days worked for the purposes of determining whether the employee worked on the scheduled work days immediately preceding and immediately following the day on which the holiday is observed.**

G. Nothing herein precludes the Mayor from designating specific furlough days or otherwise determining how to implement mandatory furloughs.

Section 11-30 Unpaid Military Leave

- A. Employees who continue in military service beyond the initial one hundred twenty (120) hours for which paid military leave is allowed under Rule 10 **PAID LEAVE** shall be placed on unpaid military leave.
- B. This rule is intended to comply with and be interpreted consistently with the Uniformed Services Employment and Reemployment Rights Act ("USERRA"). To the extent an issue is not addressed in this rule, or to the extent this rule is inconsistent with the USERRA, the USERRA and its corresponding regulations shall govern.
- C. Requests for **unpaid** military leave **may** be made **verbally or in writing, and shall be made** in advance, when possible. If **an** employee is unable to provide advance notice **due to military necessity**, the employee may give notice after starting duty.
- D. Employees who are called to active military duty with written orders for services exceeding one hundred and seventy nine (179) days because of war or national emergency **may be eligible for a military pay differential.**

11-31 Granting Unpaid Military Leave

Unpaid military leave shall be subject to the following provisions:

A. **Duration:**

Unpaid military leave shall be granted for the duration of active military service not to exceed five (5) years plus ninety (90) days from the date of discharge, **subject to exceptions set forth in USERRA and its corresponding regulations.**

B. Maintenance of Benefits:

1. First Thirty Days of Military Leave:

The first thirty (30) consecutive days of military leave (paid and unpaid) shall have no effect on the following:

a. City contributions to health, dental, and life insurance; and

b. Accrual of PTO or sick and vacation leave, and holiday eligibility.

2. After Thirty Days of Military Leave:

a. 1. Employees absent on military leave (paid and unpaid) for thirty-one (31) days or longer, are eligible for health benefit coverage from the military. In addition, an employee on military leave for thirty-one (31) days or longer may continue his or her individual and/or family coverage under the City's group health plan for the duration of military leave. Employees opting for continuing coverage under the City's group health plan are responsible for paying 100% of the premium costs.

2. During military leave, the employee may continue supplemental insurance coverage(s), such as dental, vision, and supplemental life insurance, for the duration of military leave. Employees opting for continuing supplemental insurance coverage are responsible for paying 100% of the premium costs.

b. Paid time off ("PTO"), sick and vacation leave shall not be earned during military leave that lasts over thirty (30) consecutive calendar days, and employees on such extended leave will not be eligible for paid holiday leave.

C. Employees may use any available paid leave (except sick leave) for some or all of their unpaid military leave.

D. Break in service:

Unpaid military leave shall not constitute a break in service.

E. Completion of probationary period:

A probationary employee who is on unpaid military leave for thirty (30) days or longer shall be considered to have attained career status if the employee returns to work after the employee's end of probation date.

11-32 Return from Unpaid Military Leave

Employees returning from unpaid military leave after an absence of ninety (90) days or less shall return to their former position. Employees returning after ninety-one (91) days or longer shall return to their former position or a job of equal status and pay, subject to the following provisions:

A. Due date for notice of return:

Upon completing military service, an employee on military leave (whether paid or unpaid) must notify his or her appointing authority of the employee's intent to return to work. The amount of notice required depends on the amount of time served.

1. Employees who served longer than one hundred eighty (180) days shall give notice within ninety (90) days after completing service.
2. Employees who served thirty-one (31) to one hundred eighty (180) days shall give notice within fourteen (14) days after completing service.
3. Employees who serve d less than thirty-one (31) days shall give notice within three (3) days after completing service.

B. Certificate of satisfactory completion of military service:

A return from unpaid military leave shall be conditional upon submission of a certificate confirming release from active duty under honorable conditions.

C. Effect of hospitalization for service connected medical condition:

In the event that the employee was hospitalized after military discharge for medical conditions which occurred during the military service, the employee's unpaid military leave shall be extended up to ~~exceed~~ two (2) years. Application for return from unpaid military leave must be made within ninety (90) days after the employee's medical provider releases him or her to return to work. Extensions beyond two (2) years may be granted.

D. Qualifications for return from military service:

The employee must be physically and mentally qualified and possess the necessary skills, knowledge and/or training to perform the essential functions of the position to which the employee is returning with or without reasonable accommodations. The City will provide appropriate training to returning employees.

E. Effect of service connected disability:

If the employee is not qualified to perform the essential functions **of the position** with or without reasonable accommodations by reason of disability sustained during active military service, the appointing authority may transfer the employee to any other available position, the duties of which the employee is qualified to perform and which will provide like seniority, status and pay, or the nearest approximation thereof, as the employee achieved in the position from which he or she was granted military leave.

F. Effect of failure to give notice for return:

Failure to give notice for return from **unpaid** military leave within the time limits stated **may** be considered a resignation.

11-**33** Military Pay Differential

- A. Career Service employees who are called to active military duty in time of war or national emergency are eligible for a military pay differential as provided by the Denver Revised Municipal Code.
- B. A written request for military pay differential shall be made by an eligible employee to the employee's department or agency as soon as possible after the employee's return to City employment using the application form **provided** by the OHR. Requests for military pay differential may also be made while the employee is on military leave.
- C. The employee shall provide copies of the following documents:
1. Written military orders for reporting and/or discharge;
 2. Leave and earnings statements from the military;
 3. All military pay vouchers, including vouchers for temporary duty and travel; and
 4. Any other documentation deemed necessary to process the request by the OHR **or** the Department of Finance.
- D. Any overpayment of funds to the employee shall be reimbursed to the City in accordance with the City's Fiscal Accountability Rules.

RULE 12
LEAVE FOR EXTENDED ILLNESSES OR INJURIES

Purpose statement:

The purpose of this rule is to provide guidelines and policies for administering extended time off caused by illness or injury.

Section 12-10 Types of Leave Covered by this Rule

- A. Family and Medical Leave Act (“FMLA”) leave;**
- B. Salary continuation leave and Workers’ Compensation leave;**
- C. American with Disabilities Act (“ADA”) leave in connection with the ADA Interactive Process.**

Section 12-15 Designees

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

Section 12-20 FMLA Policy

It is the policy of the Career Service Board to provide leave under the FMLA to eligible employees. The purpose of FMLA leave is to provide up to twelve weeks of job-protected leave in a twelve-month period to eligible employees for specified immediate family and medical reasons. This rule is intended to comply with and be interpreted consistent with the FMLA and its corresponding regulations. To the extent an issue is not addressed herein, **or if there is a conflict with a Career Service Rule,** the FMLA and its corresponding regulations shall govern.

12-21 When Leave under the FMLA May be Used

FMLA leave shall only be available:

- A. For the birth and care of a newborn child of the employee (including a newborn child born into a domestic partnership);
- B. For placement with the employee or the employee’s domestic partner **(as defined in Rule 10 PAID LEAVE)** of a child for adoption, foster care or legal guardianship;
- C. To care for an employee’s **parent, spouse or domestic partner, or child** with a serious health condition;
- D. To take leave when the employee is unable to perform the functions of the employee’s job because of a **“serious health condition” as defined in the FMLA and its corresponding regulations; or**

E. For any other reason authorized by the FMLA.

12-22 Eligibility for FMLA leave

An employee **may be eligible for FMLA leave if the employee** has:

- A.** Been employed by the City for at least twelve (12) months **in the last seven (7) years;** and
- B.** Worked at least twelve hundred and fifty (1,250) hours in the twelve (12) months **immediately** preceding the beginning of the FMLA leave.

12-23 Requesting FMLA leave

- A. An employee may expressly request FMLA leave, or may merely state that he or she needs leave for a reason which the appointing authority knows is a qualifying reason for FMLA leave. In either instance, the appointing authority shall notify the employee that the leave may qualify as FMLA leave and request and provide information in accordance with this rule.
- B. In any situation where the need for FMLA leave is foreseeable, an employee shall provide thirty (30) days notice or such notice as is practicable.
- C. In any situation where the need for FMLA leave is not foreseeable, the employee shall provide such notice as is practicable. Such notice may be provided by the employee or the employee's spokesperson if the employee is unable to do so personally. The employee or the employee's spokesperson will provide more information as required by the appointing authority when it can be readily accomplished as a practical matter.
- D. An employee requesting FMLA leave must provide to the appointing authority all information necessary to determine if such leave is appropriate, including:
 - 1. The reasons for the leave so as to allow the appointing authority to determine if the conditions identified in **subsection 12-21 of this Rule** have been met.
 - 2. The anticipated start of the leave.
 - 3. The anticipated duration of the leave.
 - 4. Whether or not the employee has a spouse or domestic partner who is also an employee of the City and County of Denver.
 - 5. A health care provider certification on a form provided by the appointing authority consistent with the FMLA.

Information provided to the appointing authority regarding an employee's FMLA leave shall be maintained in a confidential file separate from the employee's personnel file.

- E. A request for FMLA leave which does not satisfy the conditions identified in **subsection 12-21 of this Rule** may be denied or delayed.
- F. A denial of a request for FMLA leave shall not preclude granting PTO or sick leave if the conditions identified in these rules are met.

12-24 Use of FMLA leave

- A. No more than twelve (12) workweeks of FMLA leave may be used in any twelve (12) month period. The twelve (12) month period shall begin when FMLA leave was first used by an employee.
- B. FMLA leave shall be granted consecutively, intermittently or on a reduced leave schedule, as provided for under the FMLA. Provided, however, if an employee requests FMLA leave intermittently or on a reduced leave schedule after the birth or placement of a child for adoption, foster care or legal guardianship, such leave shall be granted **only** if it is consistent with the reasonable operational necessity of the agency, as determined by the appointing authority.
- C. It is the appointing authority's responsibility to designate qualifying leave as FMLA leave and the appointing authority shall notify the employee of such designation and provide other required information about FMLA leave. An employee **can** not refuse to allow the appointing authority to designate qualifying leave as FMLA leave.
- D. FMLA leave is unpaid leave, unless an employee elects to substitute available paid leave for unpaid FMLA leave, subject to the limitations in this Rule **12** on the use of paid leave while on **salary continuation** leave or Workers' Compensation leave.
- E. In the case where both spouses or domestic partners are employees, the amount of FMLA leave available shall be determined as follows:
 - 1. When the leave is because of birth, adoption, foster care or legal guardianship of a child, the FMLA leave available **for bonding** shall be the combined total of twelve (12) weeks of FMLA leave during any twelve (12) month period **as defined in the FMLA and its corresponding regulations**.
 - 2.** **When the leave is because of the "serious health condition" of a parent, the FMLA leave available shall be the combined total of twelve (12) weeks during any twelve (12) month period as defined in the FMLA and its corresponding regulations.**
 - 3.** When the leave is because of a serious health condition of either or both employees or a child, twelve (12) weeks of FMLA leave may be used by each employee in any twelve (12) month period.

12-25 Secondary employment during FMLA leave

Appointing authorities may deny secondary employment during FMLA leave.

12-26 Investigation of Use of FMLA leave

Appointing authorities may investigate the use of FMLA leave consistent with the FMLA **and its corresponding regulations**, including by ~~a~~ requiring a second opinion and third opinion, if appropriate, **and by considering information that is inconsistent with an employee's FMLA request**. Misuse of FMLA leave may be cause for disciplinary action up to and including dismissal. An appointing authority may not discipline an employee for appropriate use of FMLA leave.

12-27 Re-assignment

If an employee needs intermittent leave or leave on a **n established** reduced leave schedule that is foreseeable based on the planned medical treatment for the employee or **the employee's parent, spouse, domestic partner, or child**, or if the appointing authority agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption, foster care or legal guardianship, the appointing authority may require the employee to transfer temporarily, during the period the intermittent or reduce**d** leave schedule is required, to an available alternative position for which the employee is qualified and **for** which **the modified schedule is less disruptive to the business and/or operational needs of the department or agency** than the employee's regular **schedule**.

12-28 Maintenance of Benefits

- A.** During any FMLA leave, the City must maintain the employee's **health insurance** coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously **working** during the entire leave period.
- B.** It shall be the responsibility of an employee on unpaid FMLA leave to provide that share of payment(s) necessary to maintain health insurance coverage.

12-29 Return from FMLA Leave

- A. An employee returning from FMLA leave due to his or her own serious health condition shall provide a certification from the employee's health care provider that the employee is able to resume work. An employee further may be required to report periodically on the employee's status and intent to return to work.
- B. An employee returning from FMLA leave shall be returned to the same position the employee held when leave began or to an equivalent position which is defined by the FMLA regulations as a position that is virtually identical to the employee's former position in terms of pay, benefits and working conditions.
- C. An employee need not be re-instated if the employee would not otherwise have been employed at the time re-instatement is requested.

- D.** If the employee is unable to return to work at the conclusion of FMLA leave, the appointing authority shall initiate the interactive process as provided in **this** Rule **12**, within twenty (20) days of the expiration of the employee's FMLA leave, unless the employee is also on **salary continuation** leave or Workers' Compensation leave.

Section 12-30 Salary Continuation Leave and Workers' Compensation Leave

12-31 Definitions (for the purposes of this Section 12-30)

- A.** **Disability: The physical inability of an eligible employee to perform the duties of his or her position, or any other position with the City.**
- B.** **Eligible employee: Any Career Service employee except:**
- 1.** **Employees occupying on-call positions; and**
 - 2.** **Employees who hold positions in classifications in the Sheriff pay schedules (Deputy Sheriff, Deputy Sheriff Sergeant, Deputy Sheriff Captain, Deputy Sheriff Major, and Deputy Sheriff Division Chief).**

12-32 Salary Continuation Leave

- A.**
- 1.** The City provides paid disability leave (**hereinafter "salary continuation leave"**) **at the rate of** eighty percent (80%) of an employee's gross salary for up to ninety (90) consecutive calendar days from the date of injury.
 - 2.** **An eligible employee is entitled to salary continuation leave if the employee has a disability as a result of an** occupational injury or occupational disease arising out of and in the course and scope of employment with the City.
- B.** An employee **receiving salary continuation leave** shall not be permitted to use other available paid leave.
- C.** **Salary continuation leave will end on the employee's last day as a City employee or if the employee is no longer eligible for temporary benefits under the Workers' Compensation Act of Colorado, as amended, Title 8, Articles 40-47, C.R.S. ("the Act").**

12-33 Workers' Compensation Leave

- A. An employee who remains unable to return to work **in his or her job without accommodation, or to modified duty** after **salary continuation leave has been exhausted**, and is receiving temporary disability benefits under the provisions of the Act, will be permitted to use Workers' Compensation leave for absences from work resulting from the employee's occupational injury or occupational disease arising out of and ~~with~~ within the course and scope of employment with the City, until it is determined that the employee is no longer eligible to receive temporary disability benefits pursuant to the Act.
- B. Workers' Compensation leave is unpaid leave, except to the extent an employee elects to use available paid leave. **An employee may use any available paid leave** to make up the difference between eighty percent (80%) of the employee's gross salary and the temporary disability benefits **paid** under the provisions of the Act.

12-34 Applicability of the FMLA

- A. The department or agency shall designate an employee's **salary continuation** leave and/or Workers' Compensation leave as FMLA leave if the requirements of the applicable Career Service and Federal statutes and regulations are met.
- B. If an employee's **salary continuation** leave and/or Workers' Compensation leave is also designated as FMLA leave, the **salary continuation** leave and/or Workers' Compensation leave shall run concurrently with the FMLA leave.

12-35 Maintenance of Benefits

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

- A.** Eligible to have the City continue paying its share of the employee's **health**, dental, and life insurance premiums during the period of **salary continuation** and/or Workers' Compensation leave, so long as the employee continues to pay his or her share of the insurance premiums.
- B.** Eligible to earn **paid** leave as provided in **these rules**;

12-36 Termination of Workers' Compensation Leave Eligibility

- A. Employees who are no longer eligible for temporary benefits under the Act are not eligible to continue receiving Workers' Compensation leave.
- B. If the employee's permanent restrictions prohibit the employee from returning to work full-time and/or full-duty after having reached Maximum Medical Improvement ("**MMI**"), the **City** shall initiate the interactive process as provided in **this** Rule **12**, within twenty (20) days of the expiration of the employee's eligibility for **salary continuation** leave or Workers' Compensation leave, unless the employee is also on FMLA leave.

- C.** **Employees who are still receiving temporary benefits under the Act may lose their eligibility for Workers' Compensation leave before reaching MMI if it is determined that they will be unable to return to work in any capacity. Such determination shall be made by the ADA Coordinator, after consulting with representatives from the City Attorney's Office and the City's Workers' Compensation Unit. Once this determination is made, the City shall initiate the interactive process as provided in this Rule 12, within twenty (20) days of the expiration of the employee's eligibility for salary continuation leave or Workers' Compensation leave, unless the employee is also on FMLA leave.**

Section 12-40 **The ADA Interactive Process**

12-41 **Policy**

- A. It is the policy of the City to provide equal employment opportunity to qualified 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.
- 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.

12-42 **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.

12-43 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**.

- 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
 - 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.
- 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.
- 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.
- 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 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.
- 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.

- 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.

12-44 Re-assignment:

- A. 1. If the ADA Coordinator determines 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.
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.
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.
- 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 Rule 5 **APPOINTMENTS AND STATUS**) to that position and is able to perform the essential functions of that position with or without accommodations. This does not preclude an employee from applying for promotions within the Career Service;
2. To job applicants who are not currently City employees.

- 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 agencies.
 - 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 agencies.
 - 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.
- 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.
 - 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.
 - 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.
- 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.
- 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.

- 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.
- 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.
 - 2. Re-assigned employees shall be provided any reasonable accommodation necessary for the employees to perform the essential functions of the new position.
- 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.
 - 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.

12-45 Re-assignment of Classified Service Employees

- A. A Classified Service employee (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.

12-46 ADA Leave

- 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.

12-47 Retaliation and Coercion

- 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).

12-48 Confidentiality and Record Keeping

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 5
APPOINTMENTS AND STATUS
(Revised November 18, 2015; Rule Revision Memo 15D)

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; *and*
- 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

- 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 provided under this Rule 5 to a subordinate employee.

5-11 Appointments of Applicants Who Are Not in the Career Service

- 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.
- 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**.
- C. Re-promotional appointment: 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.

- 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.
1. An employee may be given a transfer appointment between departments or agencies provided that the employee and the receiving appointing authority consent.
 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.
- E. Demotion appointment: An appointment of an employee to a position in a classification for which the employee meets the minimum qualifications and 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.
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.

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 with or without notice and with or without cause 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.

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. 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 probationary period established by this Rule 5.

- A. An employment probationary period shall be regarded as an integral part 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, Police Dispatcher, and Staff Probation Officer 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 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.
 - a. Employees who completed the required new hire training within the three years prior to the effective date of appointment are not required to take that training again.
 - b. Employees who have completed the required new manager 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 re-allocation request are not required to take that 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.

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, Police Dispatcher, and Staff Probation Officer 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.

- G. 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.

5-35 Career Status

- A. Employees attain career status through:
 1. Successful completion of-the employment probationary period, and the training programs required by this Rule 5; or
 2. Re-instatement after lay-off.

- B. An employee in career status:
 1. May only be disciplined or dismissed 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

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 section of Rule 5 **APPOINTMENTS AND STATUS** shall be terminated immediately.

~~Section 5-80 The ADA Interactive Process~~

~~5-81 Policy~~

- ~~A. It is the policy of the City to provide equal employment opportunity to qualified 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.~~
- ~~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.~~

~~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.~~

- ~~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~~
 - ~~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.~~
- ~~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.~~
- ~~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.~~
- ~~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 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.~~

~~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.~~

~~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.~~

~~5-84 Re-assignment:~~

~~A. 1. If the ADA Coordinator determines 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.~~

~~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.~~

~~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.~~

~~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. This does not preclude an employee from applying for promotions within the Career Service;~~

~~2. To job applicants who are not currently City employees.~~

- ~~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 agencies.~~
- ~~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 agencies.~~
- ~~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.~~
- ~~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.~~
- ~~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.~~
- ~~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.~~
- ~~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.~~
- ~~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.~~

~~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.~~

~~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.~~

~~2. Re-assigned employees shall be provided any reasonable accommodation necessary for the employees to perform the essential functions of the new position.~~

~~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.~~

~~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.~~

~~5-85 Re-assignment of Classified Service Employees~~

~~A. A Classified Service employee (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~~

~~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~~

~~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~~

~~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.~~

RELATED RULES – LEAVE RULE REVISION PROPOSAL

From **RULE 1 DEFINITIONS**

Domestic Partner:

~~An unmarried adult, unrelated by blood (closer than would prohibit marriage in Colorado pursuant to the Colorado Revised Statutes); with whom an unmarried employee has an exclusive committed relationship, maintains a mutual residence and shares basic living expenses (Effective March 16, 1995; Rule Revision Memo 178B).~~

Immediate family:

~~Husband, wife, son, daughter, mother, father, grandmother, grandfather, grandchildren, brother, sister, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, domestic partner, and the mother, father, son, daughter, brother, or sister of the domestic partner, as well as minor children for whom the employee or the employee's domestic partner provide day to day care and financial support~~

Leave:

~~An authorized absence from regularly scheduled work hours which has been approved by proper authority (Effective May 16, 1956; Rule Revision Memo 16A).~~

Length of Service:

Total number of years, months and days of continuous service, (for examination purposes) including time an employee is on authorized **unpaid** leave of absence without pay, but exclusive of service in on-call status positions.

Serious health condition:

~~An illness, injury, impairment or physical or mental condition, which involves inpatient care in a hospital, hospice or residential medical care facility or continuing treatment by a health care provider (Effective February 8, 2005; Rule Revision Memo 257B).~~

Workmen's compensation:

~~Benefits received by an employee who is injured while carrying out his work assignment as determined by the Workmen's Compensation Act of Colorado.~~

Section 3-40 Referral

(Revised November 18, 2015; Rule Revision Memo 15D)

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:

-
- B. City employees who are eligible for an ADA re-assignment under Rule 12 ~~LEAVE FOR EXTENDED ILLNESSES OR INJURIES~~ ~~5 APPOINTMENTS AND STATUS~~
-

14-43 Length of Service

- B. Additional length of service credits from military service

2. Other provisions regarding military service credits:

- c. Employees who received paid or unpaid leave ~~were granted leave of absence without pay~~ for the purpose of serving on active military duty as defined in paragraph 14-43 B Additional length of service credits from military service shall not be credited with military service time, but shall have ~~the~~ this period of military ~~leave of absence without pay~~ included in determining their length of service.

**RULE 10
PAID LEAVE**

Purpose statement:

The purpose of this rule is to provide guidelines and policies for administering the City's paid leave programs. **For rules regarding leave for extended illnesses or injuries see Rule 12 LEAVE FOR EXTENDED ILLNESSES OR INJURIES.**

Section 10-10 **General**

10-11 Definitions

A. Leave: Any absence during regularly scheduled work hours. The following types of paid leave are **covered in this rule** ~~officially established and shall be in effect unless otherwise provided by ordinance.~~

1. Paid time off ("PTO") ~~including bereavement;~~
2. Sick and vacation ~~including bereavement;~~

3. **Bereavement**

- ~~3~~ **4.** Holiday;
- ~~4~~ **5.** Compensatory;
- ~~10~~ **6.** Administrative;
- ~~4~~ **7.** Military;
- ~~5~~ **8.** Election;
- ~~6~~ **9.** Court;
- ~~7~~ **10.** Investigatory;
- ~~8~~ **11.** Training;
- ~~11~~ **12.** Occasional time off.

B. **Domestic Partner: An unmarried adult, unrelated by blood (closer than would prohibit marriage in Colorado pursuant to the Colorado Revised Statutes); with whom an unmarried employee has an exclusive committed relationship, maintains a mutual residence and shares basic living expenses.**

- C B.** ~~Immediate family: Husband, wife, son, daughter, mother, father,~~ **Spouse, child,** ~~grandmother, grandfather, grandchildren, brother, sister,~~ **parent, grandparent,** ~~son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law,~~ **sibling,** ~~sister-in-law, domestic partner, and the mother, father,~~ **parent, child,** ~~son,~~ ~~daughter,~~ **or sibling** ~~brother, or sister~~ of the domestic partner, as well as minor children for whom the employee or the employee's domestic partner provide day-to-day care and financial support.

~~Section 10-15~~ **12** Designees

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

10-13 Applicability to Deputy Sheriff Classifications

None of the provisions of this Rule 10 (except election leave, donated leave and investigatory leave) shall apply to Career Service employees who hold positions in classifications in the Sheriff pay schedules (Deputy Sheriff, Deputy Sheriff Sergeant, Deputy Sheriff Captain, Deputy Sheriff Major, and Deputy Sheriff Division Chief).

10-14 References to the Denver Revised Municipal Code (“DRMC”)

This Rule 10 incorporates parts of the DRMC solely for informational purposes as a convenience to readers of this rule. Excerpts from the DRMC will be clearly identified as such and are not intended to be made a part of this rule. DRMC excerpts include a reference to the applicable section and are labeled “Source: DRMC § ____.” Should the applicable provisions of the DRMC change, the reference to the that provision in this Rule 10 may be changed without going through the rule change process described in Rule 2 OFFICE OF HUMAN RESOURCES. In case of a conflict between the DRMC and the provisions of this rule, the DRMC will prevail.

Section 10-20 Paid Time Off (“PTO”)

10-21 Eligibility

All eligible Career Service employees hired or re-employed by the City after December 31, 2009 shall receive PTO with the exception of:

- A. Part-time employees who are regularly scheduled to work less than twenty (20) hours per week; and**
- B. Employees occupying on-call positions.**

Source: D.R.M.C. §18-123

SUMMARY OF THE PAID TIME OFF ORDINANCE

1. Eligibility
<p>Covered employees:</p> <p>A. Career Service employees hired or re-hired after December 31, 2009.</p> <p>B. Career Service employees who elected to convert from receiving sick and vacation leave to receiving PTO.</p> <p>Excluded employees:</p> <p>A. Part time employees who are regularly scheduled to work less than twenty (20) hours per week;</p> <p>B. Persons occupying or employed in on-call, temporary, or seasonal positions, or positions in which the incumbent is paid according to the community rate schedule; and</p> <p>C. Employees who hold positions in classifications in the Undersheriff pay schedules.</p> <p>Source: D.R.M.C. §18-123</p> <p style="text-align: center;">THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.</p>

SUMMARY OF THE PAID TIME OFF ORDINANCE – continued
2. Conversion to PTO
<p>A. Employees who were receiving paid sick and vacation leave on December 31, 2009 and who otherwise continue to remain eligible may elect to receive PTO benefits instead of paid sick and vacation leave. In order to receive PTO benefits, such employees must provide written notice of this election to the Department of Finance on or before February 1, 2010.</p> <p>B. Employees who elect to participate in the PTO plan must convert their existing sick and vacation leave banks into a special leave bank. The employee shall convert one hundred (100) percent of his or her existing vacation leave plus a maximum of fifty (50) percent of his or her existing sick leave into PTO, which shall be deposited in a special leave bank. The amount of PTO in the special leave bank cannot exceed four hundred (400) hours. Any excess sick leave shall be forfeited. The amount of existing sick and vacation leave to be converted shall be the amount of leave earned as of January 31, 2010.</p> <p>C. The PTO balance in an employee's special leave bank shall not be replenished. PTO subsequently earned by an employee shall be deposited in his or her PTO bank. PTO used by an employee shall be debited from the employee's PTO bank first unless that bank has been exhausted or if the employee requests that the special leave bank be used first.</p>

Source: D.R.M.C. §18-124					
3. Earning PTO					
Years of consecutive service					
	0 < 0.5	0.5 < 5	5 < 10	10 < 15	≥ 15
Paid time off earned per month	10	12	15	18	19
A proportionate amount shall be allowed eligible employees working part time.					
Source: D.R.M.C. §18-125					
4. Limits on PTO accumulation					
PTO may not be accumulated in excess of four hundred (400) hours.					
Source: D.R.M.C. §18-127 (a)					
THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.					

SUMMARY OF THE PAID TIME OFF ORDINANCE – continued					
6. Effect of separation on PTO balance					
Upon separation from the City, an employee shall be paid at his or her regular rate of pay for the unused portion of his or her accumulated PTO.					
Source: D.R.M.C. §18-127 (b)					
THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES					

10-22 PTO Allowance

A. The amount of PTO earned by eligible full-time employees shall be calculated as follows:

	<u>Years of consecutive service</u>				
	<u>0 < 0.5</u>	<u>0.5 < 5</u>	<u>5 < 10</u>	<u>10 < 15</u>	<u>> 15</u>
<u>PTO hours earned per month</u>	<u>10</u>	<u>12</u>	<u>15</u>	<u>18</u>	<u>19</u>

B. A proportionate amount shall be allowed eligible employees working part-time.

Source: D.R.M.C. §18-125

10-~~24~~ 23 Partial Leave Accruals

Full-time employees, eligible to earn PTO:

- A. Who begin employment with the City after the first day of a month; or
- B. **Whose leave accruals stopped because of an extended absence from work and return to work after the first day of a month; or**
- C.** Who separate from employment with the City before the last day of a month

Shall earn PTO in that particular month according to the following pro-ration schedule:

Hrs. worked (including pd. lv) in the month	Years of service				
	≤ 0.5	0.5 < 5	5 < 10	10 < 15	≥15
0-39	0	0	0	0	0
40-79	2.5	3	3.75	4.5	4.75
80-119	5	6	7.5	9	9.5
120-139	7.5	9	11.25	13.5	14.25
>140	10	12	15	18	19

PTO hours earned

10-~~22~~ 24 Situations Where Approval of PTO Use is not Required

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

10-~~23~~ 25 All Other PTO Uses

- A. All other uses of PTO require the approval of the employee's appointing authority.
- B. Appointing authorities shall approve such requests to use PTO on the basis of the work requirements of the agency after conferring with employees and recognizing their wishes where possible. Preference in the scheduling of pre-approved PTO shall be given to employees in order of their total length of continuous employment in the Career Service; provided, however, that an employee who has been re-instated or re-employed following a lay-off shall be given credit for the period of continuous employment in the Career Service prior to the lay-off.

~~C. Exceeding the PTO Accumulation Limit:~~

~~An appointing authority may not defer an employee's use of PTO to the extent that the employee will lose earned PTO. If the appointing authority is unable to allow an employee who has accumulated the maximum hours of PTO to use any of those hours because of workload, the appointing authority shall submit and the OHR Executive Director shall approve an emergency request to exceed the maximum amount. The employee must use the excess over four hundred (400) hours in the employee's PTO bank within one year of the approval date.~~

10-26 Maximum Accumulation and Pay-out of PTO

- A. PTO earned by an employee shall be deposited in his or her PTO bank. PTO may not be accumulated in the PTO bank in excess of four hundred (400) hours.**

Source: D.R.M.C. §18-124 and 127(a)

- B. Exceeding the PTO Accumulation Limit:**

Ordinarily an employee at the PTO leave accumulation limit of four hundred (400) hours cannot accumulate any additional PTO. However, if the appointing authority is unable to allow an employee who has accumulated the maximum hours of PTO to use PTO because of workload, the appointing authority shall request that the OHR Executive Director allow the employee to exceed the maximum amount. The employee must use the excess over four hundred (400) hours in the employee's PTO bank within one year of the approval date.

- C. Employees who elected to voluntarily convert from sick and vacation leave to PTO leave on February 1, 2010 were required to convert their sick and vacation leave balances into a special leave bank. PTO used by an employee shall be debited from the employee's PTO bank first unless it has been exhausted or if the employee requests that the special leave bank be used first. This special leave bank cannot:**

1. Exceed 400 hours; or

2. Be replenished.

Source: D.R.M.C. §18-124

- D. Upon separation, a PTO recipient shall be paid at his or her regular rate of pay for the unused portion of his or her accumulated PTO bank and special bank if applicable.**

Source: D.R.M.C. §18-127(b)

Section 10-30 Sick and Vacation Leave

10-31 Eligibility

All eligible Career Service employees who:

- A. Were receiving paid sick and vacation leave on December 31, 2009:**
- B. Remain continuously employed by the city; and**
- C. Have not voluntarily elected to receive PTO benefits:**

Shall be entitled to continue to receive paid sick and vacation leave so long as the officer or employee does not become:

- A. A part-time employee who is regularly scheduled to work less than twenty (20) hours per week; or**
- B. An employee occupying an on-call position.**

Source: D.R.M.C. §18-131

SUMMARY OF SICK AND VACATION LEAVE ORDINANCES				
<u>1. Eligibility</u>				
<p>Career Service employees who were receiving paid sick and vacation leave on December 31, 2009; who remain continuously employed by the City; and who have not voluntarily elected to receive PTO benefits, shall be entitled to continue to receive paid sick and vacation leave so long as the employee does not become:</p> <p>A. A part time employee who is regularly scheduled to work less than twenty (20) hours per week;</p> <p>B. A person occupying or employed in on call, temporary, or seasonal position, or position in which the incumbent is paid according to the community rate schedule; and</p> <p>C. An employee who holds a position in a classification in the Undersheriff pay schedules.</p> <p><u>Source: D.R.M.C. §18-131</u></p>				

<u>2. Earning vacation and sick leave</u>				
<u>Years of consecutive service</u>				
	<u>0 < 5</u>	<u>5 < 10</u>	<u>10 < 15</u>	<u>≥ 15</u>

Vacation hrs. earned per month	8	10	12	14
Sick hours earned per month	8	8	8	8
<p>A proportionate amount shall be allowed eligible employees working part time.</p> <p>Source: D.R.M.C. §18-132</p> <p>THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.</p>				

10-32 Sick and Vacation Leave Allowance

- A. Eligible full-time employees shall accrue eight (8) hours of sick leave every month.**
- B. The amount of vacation leave earned by eligible full-time employees shall be calculated as follows:**

	<u>Years of consecutive service</u>			
	<u>0 < 5</u>	<u>5 < 10</u>	<u>10 < 15</u>	<u>>15</u>
<u>Vacation hrs. earned per month</u>	<u>8</u>	<u>10</u>	<u>12</u>	<u>14</u>

- C. Employees working part-time shall accrue a proportionate amount.**

Source: D.R.M.C. §18-132

10-~~34~~ **33** Partial Leave Accruals

Full-time employees, eligible to earn vacation and sick **and vacation** leave:

- A. Who begin employment with the City after the first day of a month; or
- B. **Whose leave accruals stopped because of an extended absence from work and return to work after the first day of a month; or**
- C.** Who separate from employment with the City before the last day of a month

Shall earn vacation and sick **and vacation** leave in that particular month according to the following pro-ration schedule:

<u>Hrs. worked (including pd. lv) in the month earned</u>	<u>Vacation hours earned</u>				<u>Sick hrs.</u>
	<u>Years of service</u>				
	0 < 5	5 < 10	10 < 15	>15	N/A
0-39	0	0	0	0	0
40-79	2	2.5	3	3.5	2
80-119	4	5	6	7	4
120-139	6	7.5	9	10.5	6
≥140	8	10	12	14	8

10-~~34~~ ~~33~~ Using Sick **and Vacation** Leave

- A. **Sick leave:**
 - 1.** Sick leave may be used when an employee is incapacitated by sickness or injury; for medical examinations, or treatment; for necessary care and attendance during sickness, or for death, of a member of the employee's immediate family, for qualifying conditions under the FMLA and as otherwise provided in these rules.
 - 2.** Absences from work because of authorized medical examinations or treatment related to an occupational injury or occupational disease arising out of and within the course and scope of employment with the City for which the City has admitted liability or has agreed to permit medical treatment while investigating the claim shall be treated as time worked. The employee shall make a reasonable effort to schedule the examination or treatment so as not to unduly disrupt the operations of the department or agency.

B. ~~10-34 Granting Vacation leave:~~

Vacation leave shall be taken at a time convenient to the department or agency, The department or agency will confer

~~A Appointing authorities shall grant leave on the basis of the work requirements of the agency after conferring with employees and recognizing their wishes where possible. Preference in the scheduling of vacation time shall be given to employees in order of their total length of continuous employment in the Career Service; provided, however, that an employee who has been reinstated or re-employed following a lay-off shall be given credit for the period of continuous employment in the Career Service prior to the lay-off.~~

Source: D.R.M.C. §18-132(b)(2)

~~B. Exceeding the Vacation Leave Accumulation Limit:~~

~~An appointing authority may not defer an employee's use of vacation leave to the extent that the employee will lose earned vacation leave. If the appointing authority is unable to allow an employee who has accumulated the maximum hours of vacation leave to use any of it because of workload, the OHR Executive Director shall approve an emergency request by the appointing authority to exceed the maximum amount. The employee must use the excess over two hundred eighty eight (288) hours or three hundred thirty six (336) hours, whichever applies, within one year of the approval date.~~

SUMMARY OF SICK AND VACATION LEAVE ORDINANCES continued
4. Granting vacation leave
Vacation leave shall be taken at a time convenient to the appointing authority, provided that, every eligible employee shall be granted vacation leave during each twelve (12) month period of employment except where a deferment, not to exceed an additional twelve (12) months, is required for the good of the service.
Source: D.R.M.C. §18-132 (b)(2)
THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.

10-32 ~~35~~ Limits on Sick and Vacation Leave Accumulation

A. Sick leave may be accumulated to a limit of nine hundred sixty (960) working hours. When the accumulation exceeds eight hundred eighty (880) working hours, an employee may request that accumulated sick leave in excess of the eight hundred eighty (880) working hours be converted to vacation leave. Such conversions are in addition to the monthly amount of vacation leave allowed by this section. Employees may not convert sick leave to vacation leave if such a conversion would result in the employee's accumulated vacation leave exceeding the limits allowed by this Rule 10.

Source: D.R.M.C. §18-132(a)(2)

B. 1. Employees with up to ten (10) years of service may accumulate up to two hundred eighty-eight (288) hours of vacation leave. Employees with ten (10) or more years of service may accumulate up to three hundred thirty-six (336) hours of vacation leave.

2. Exceeding the Vacation Accumulation Limit:

Ordinarily an employee at the vacation leave accumulation limit cannot accumulate any additional vacation leave. However, if the appointing authority is unable to allow an employee who has accumulated the maximum hours of vacation leave to use vacation leave because of workload, the appointing authority shall request that the OHR Executive Director allow the employee to exceed the maximum amount. The employee must use the excess over the vacation leave accumulation limit within one year of the approval date.

SUMMARY OF SICK AND VACATION LEAVE ORDINANCES continued
3. Limits on sick leave accumulation
Sick leave may be accumulated to a limit of nine hundred sixty (960) working hours. When the accumulation exceeds eight hundred eighty (880) working hours, an employee may request that accumulated sick leave in excess of the eight hundred eighty (880) working hours be converted to vacation leave. Such conversions are in addition to the monthly amount of vacation leave allowed by ordinance. Employees may not convert sick leave to vacation leave if such a conversion would result in the employee's accumulated vacation leave exceeding the limits allowed by the Career Service Rules.
Source: D.R.M.C. §18-132 (a)(2)
THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.

SUMMARY OF SICK AND VACATION LEAVE ORDINANCES continued

~~5. Effect of separation on sick and vacation leave balances~~

~~A. Sick leave~~

~~The following table applies to the pay out of sick leave upon separation for any reason other than death or retirement:~~

Full years Of service	Payout formula
<5	No pay out
5	Sick leave balance minus (5 X 40 hrs.) or 200 hrs.
6	Sick leave balance minus (6 X 40 hrs.) or 240 hrs.
7	Sick leave balance minus (7 X 40 hrs.) or 280 hrs.
8	Sick leave balance minus (8 X 40hrs.) or 320 hrs.
9	Sick leave balance minus (9 X 40hrs.) or 360 hrs.
≥10	Sick leave balance minus (10 X 40hrs.) or 400 hrs.

~~Upon separation due to retirement or death, an employee shall be paid at his or her regular rate of pay for one half (1/2) of all accumulated sick leave credits existing on the effective date of separation or death, or in accordance with the method described above, whichever is higher, but not to exceed five hundred sixty (560) working hours.~~

~~Source: D.R.M.C. §18-134 (a)~~

~~B. Vacation leave~~

~~Employees with more than six (6) months of service shall be paid at his or her regular rate of pay for the unused portion of his or her accumulated vacation leave upon separation from employment.~~

~~Source: D.R.M.C. §18-134 (b)~~

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

10-36 Sick and Vacation Leave Pay Upon Separation

A. Sick leave:

- 1. The following table applies to the pay-out of sick leave upon separation for any reason other than death or retirement:**

<u>Full years Of service</u>	<u>Payout formula</u>	
<u><5</u>	<u>No pay out</u>	
<u>5</u>	<u>Sick leave balance minus</u>	<u>(5 X 40 hrs.) or 200 hrs.</u>
<u>6</u>	<u>Sick leave balance minus</u>	<u>(6 X 40 hrs.) or 240 hrs.</u>
<u>7</u>	<u>Sick leave balance minus</u>	<u>(7 X 40 hrs.) or 280 hrs.</u>
<u>8</u>	<u>Sick leave balance minus</u>	<u>(8 X 40hrs.) or 320 hrs.</u>
<u>9</u>	<u>Sick leave balance minus</u>	<u>(9 X 40hrs.) or 360 hrs.</u>
<u>>10</u>	<u>Sick leave balance minus</u>	<u>(10 X 40hrs.) or 400 hrs.</u>

- 2. Upon separation due to retirement or death, an employee shall be paid at his or her regular rate of pay for one-half (1/2) of all accumulated sick leave credits existing on the effective date of separation or death, or in accordance with the method described above, whichever is higher, but not to exceed five hundred sixty (560) working hours.**

B. Vacation leave:

Employees shall be paid at their regular rate of pay for the unused portion of their accumulated vacation leave upon separation from employment.

Source: D.R.M.C. §18-134

Section 10-40 Administration of Paid Time Off and Sick and Vacation Ordinances

<u>SUMMARY OF THE PAID TIME OFF AND SICK AND VACATION ORDINANCES</u>
<u>1. Effect of appointment to another City position:</u>
<p>When an employee is appointed to a Career Service position from any other City department or agency which is governed by the PTO ordinance or the sick and vacation ordinance, the employee's paid leave credits shall be transferred into the new place of City employment, provided that the entrance on duty in the new position immediately follows the separation from the former position.</p>
<p>Source: D.R.M.C. §18-126 & §18-133</p>
<p>THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.</p>

10-42 ~~41~~ Effect of Appointment to Another ~~a~~ Career Service Position

When an employee is appointed to a Career Service position from any other City department or agency which is governed by the PTO ordinance or the sick and vacation ordinance, the employee's paid leave credits shall be transferred to the new position, so long as there is no break in service.

~~When an employee is appointed to one Career Service position from another, the employee's accumulated PTO or sick and vacation leave shall be transferred to the new position.~~

Source: D.R.M.C. §18-126 & §18-133

10-44 ~~42~~ Length of Service

In computing length of service for the purpose of determining an employee's PTO or vacation leave accrual rate, service in a **paid** position in any City department or agency other than the Classified Service of Police and Fire, the Denver Water Board, on-call positions, and ~~contact~~ **contract** positions, shall be counted as service, provided such service was performed continuously, immediately prior to the employee's employment or re-employment appointment to the Career Service.

10-43 Using Paid Leave

- A. The amount of PTO or sick and vacation leave used shall be the amount of time an employee is **absent from his or her scheduled shift(s)** ~~scheduled to work when the leave is used.~~
- B. PTO or sick and vacation leave shall not be used before it is **accrued and** posted to the employee's account.
- C. Employees may take PTO, sick leave, and vacation leave in increments of at least fifteen (15) minutes.**

10-44 Reporting and Investigation of Sick Leave **Used for Sickness or Injury**

- A. If an employee is absent for reasons that entitles the employee to use PTO **or sick leave** without appointing authority approval, ~~or sick leave,~~ the employee or a member of the employee's household shall notify the employee's supervisor as soon as possible but at least within two (2) hours after the employee's usual reporting time. Appointing authorities may establish reporting procedures which differ from the standard for an entire agency, for specific units, or for individual employees in order to meet special program needs or workloads.
- B. If an employee fails to notify the employee's supervisor or agency head, no PTO or sick leave shall be authorized, except in unusual circumstances, to be determined by the appointing authority.

- C. Appointing authorities may investigate the alleged illness of an employee using PTO ~~or sick leave~~ without appointing authority approval, ~~or sick leave~~. False or fraudulent use of PTO or sick leave shall be cause for disciplinary action and may result in dismissal.
- D. An employee who is using PTO or sick leave for more than three (3) days because of his or her own illness or that of a member of his or her immediate family may be required to furnish a statement signed by attending physician, or other proof of illness satisfactory to the appointing authority. An appointing authority may require this statement or proof for an absence chargeable to PTO ~~or sick leave~~ without appointing authority approval, ~~or sick leave~~, of any duration. If an appointing authority, ~~supervisor, or employee~~ has reason to believe that the absence may be a qualifying event under the FMLA, ~~he or she should contact human resources~~ the FMLA medical certification requirements shall apply.

10-45 ~~Donated Leave A.~~ Donating Leave

- ~~1~~ **A.** A Career Service employee may donate sick leave to another Career Service employee provided that the employee donating sick leave:
- ~~a~~ **1.** Has been earning sick leave from the City continuously for the last five years; and
 - ~~b~~ **2.** Retains a sick leave balance of at least two hundred forty (240) hours after the donation.
- ~~2~~ **B.** A Career Service employee may donate PTO to another Career Service employee provided that the employee donating PTO retains a PTO balance of at least eighty (80) hours after the donation.
- ~~3~~ **C.** A Career Service employee may donate PTO or sick leave to a non-Career Service City employee provided that the recipient employee's department or agency and any applicable collective bargaining agreement allow employees to receive donations of leave from Career Service employees and provided that the applicable donor requirements have been met.
- ~~4~~ **D.** A Career Service employee may donate PTO or sick leave to, or receive donated sick leave from, an employee covered by the ~~Under Sheriff~~ pay schedule **s** to the extent permitted by the applicable collective bargaining agreement and provided that the donor and recipient requirements applicable to the non-~~Under Sheriff~~ employee have been met.

E. Recipient requirements:

1. Before an employee can receive donated leave, the employee (or the employee's representative) must provide notice to the Department of Finance that the employee anticipates a need for donated leave. Such notice shall estimate how much donated leave the employee expects to use in the current calendar year. Should the employee need more donated leave beyond the original estimate, the employee shall provide notice of this to the Department of Finance before the employee can receive additional donations.
2. In order to use donated leave, an employee must:
 - a. Have exhausted his or her accumulated compensatory time, sick leave and vacation leave or PTO, be absent from work and;
 - i. Be receiving **salary continuation leave** ~~disability leave~~, or temporary disability benefits under the provisions of the Workers' Compensation Act. In either of these situations, the employee may only use donated leave to make up the difference between the employee's base salary, and the total of other paid leave received and the temporary disability benefits the employee is receiving;
 - ii. Be receiving FMLA leave;
 - iii. Be receiving ADA leave ~~(Revised December 20, 2012; Rule Revision Memo 65C)~~; or
 - iv. Have received written notice of a contemplation of disqualification meeting. The employee may use donated leave until disqualification occurs or until the end of the period in which a decision on disqualification must be issued, whichever occurs first.

~~Or~~

~~b. Have elected to substitute donated leave for unpaid parental involvement leave.~~

3. Donated leave can be used to cover absences that occur up to fifteen (15) calendar days before the leave was posted to a recipient's account so long as the other conditions of this section have been met.
4. A Career Service employee may receive donated leave from a non-Career Service City employee provided that the donor employee's department or agency allows employees to donate leave to Career Service employees and that the recipient requirements listed above have been met.

5. Employees who are eligible to receive donated leave may receive either donated PTO or donated sick leave regardless of whether the employee is enrolled in the PTO or sick and vacation leave plan.

~~E~~ **F.** Employees cannot use more than six hundred (600) hours of donated leave in a calendar year. Employees cannot receive donated leave to the extent that the donated leave will increase the employee's PTO or sick leave bank over the applicable maximum accumulation limit.

- ~~D~~ **G.**
1. The amount of donated leave to be credited to the recipient's account shall be computed as follows:
 - a. Multiply the number of hours of leave being donated by the hourly rate of pay of the donor employee;
 - b. Divide the result by the hourly rate of pay of the recipient; and
 - c. Round the result down to the closest full hour.
 2. The computations made in paragraph ~~D~~ **G.1.** shall be reported to the Department of Finance in accordance with procedures to be established by that office.

~~E~~ **H.** Recipients of donated leave are not entitled to receive pay upon separation for unused donated leave. Unused donated leave may not be donated to another employee or returned to the donor.

10-46 Effect of Separation on Leave Accrual

Employees shall not earn PTO or sick and vacation leave after the employee's last day as a City employee. Rule 14 **SEPARATION OTHER THAN DISMISSAL** and Rule 16 **CODE OF CONDUCT AND DISCIPLINE** describe ~~describe~~ **provide** this date for dismissals and other types of separations.

SUMMARY OF THE PAID TIME OFF AND SICK AND VACATION ORDINANCES
continued
2. Re-instated employees
Employees who were laid off while receiving paid sick and vacation leave benefits, and are re-instated under the Career Service Rules after December 31, 2000, will be enrolled in the PTO plan unless they elect in writing to continue to receive sick and vacation leave. Such election must be made within thirty (30) days of the effective date of the re-instatement.
Source: D.R.M.C. §18-123 (c)
THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES.

10-47 Re-instated Employees

Employees who were laid off while receiving paid sick and vacation leave benefits, and are re-instated under the Career Service Rules after December 31, 2009, will be enrolled in the PTO plan unless they elect in writing to continue in the paid sick and vacation plan. Such election must be made within thirty (30) days of the effective date of their reinstatement.

Source: D.R.M.C. §18-123 (c)

10-47 48 Effect of Re-instatement and Re-employment on PTO and Sick Leave Balance

An employee who is re-instated after a lay-off shall have sick leave that he or she was not paid for at the time of separation restored as follows:

- A. Employees who are enrolled in the PTO plan upon re-instatement may be able to convert sick leave that was lost at the time of lay-off to the special PTO bank. The amount that may be converted is based on the employee's accumulated sick leave at the time of separation. Up to one-half of this amount may be converted to the special PTO bank;
 - 1. So long as the amount converted does not exceed four hundred (400) hours; and
 - 2. After the sick leave the employee was paid for at the time of separation is deducted from this amount.
- B. Employees who elect to receive sick and vacation leave after re-instatement shall have all sick leave that he or she was not paid for at the time of separation restored to the employee's sick leave bank.
- C. An employee who is re-employed while his or her name is on a re-instatement list shall also be entitled to restoration of eligible sick leave under the terms of this subsection.

SUMMARY OF THE PAID TIME OFF ORDINANCE – continued
5. Bereavement leave
Employees who receive PTO benefits shall be entitled to use up to forty (40) hours of paid bereavement leave because of the death of a member of the employee's immediate family. This forty (40) hours of bereavement leave shall not count against the employee's PTO bank.
Source: D.R.M.C. §18-128
THIS SUMMARY IS PROVIDED FOR INFORMATIONAL PURPOSES AND IS NOT CONSIDERED A PART OF THE RULES

Section 10-50 Bereavement Leave

A. Employees receiving PTO:

Employees who receive PTO benefits shall be granted up to forty (40) hours of paid bereavement leave because of the death of a member of the employee's immediate family. This forty (40) hours of bereavement leave shall not count against the employee's PTO bank.

Source: D.R.M.C. §18-128

B. Employees receiving sick leave:

~~10-35 Bereavement Leave~~

Employees receiving sick leave shall be entitled to use up to forty-eight (48) hours of sick leave because of the death of a member of an employee's immediate family. ~~An appointing authority may grant additional sick leave, or may allow an employee to use other paid or unpaid leave because of unusual circumstances.~~

C. ~~10-24~~ Additional Bereavement Leave

~~An appointing authority may, in addition to the forty (40) hours of bereavement leave permitted by ordinance, grant additional PTO, or may allow an employee receiving PTO to use other paid or unpaid leave **for bereavement** because of unusual circumstances connected with the death of a member of the employee's immediate family.~~

Section 10-50 ~~60~~ Paid Holiday Leave

10-61 Eligibility

A. All eligible Career Service employees shall receive paid holiday leave benefits as provided in these rules, with the exception of:

- 1. Part-time employees who are regularly scheduled to work less than twenty (20) hours per week; and**
- 2. Employees occupying on-call positions.**

Source: D.R.M.C. §18-141

~~10-53 Eligibility for Paid Holiday Leave~~

- ~~A~~ **B.** Unless otherwise provided in **these rules** ~~Rule 11 UNPAID AND EXTENDED LEAVE~~, an eligible employee must be at work or on an authorized, paid leave on the scheduled workdays immediately preceding and immediately following the day on which the holiday is observed in order to receive paid holiday leave.
- ~~B~~ **C.** Religious or other holidays not observed by the City may be granted in accordance with the rules governing paid and unpaid leave.

10-62 Designation of holidays

"Holidays" for the purposes of this rule shall mean eight (8) hours in the following days:

- A. New Year's Day (January 1);**
- B. Martin Luther King Day (third Monday in January);**
- C. Washington's Birthday (observed on the third Monday in February);**
- D. Cesar Chavez Day (last Monday in March);**
- E. Memorial Day (last Monday in May);**
- F. Independence Day (July 4);**
- G. Labor Day (first Monday in September);**
- H. Veterans' Day (November 11);**
- I. Thanksgiving Day (fourth Thursday in November);**
- J. Christmas Day (December 25);**
- K. Personal holiday (one (1) personal holiday on date agreed upon by employee and the city to be used within the calendar year).**

Source: D.R.M.C. §18-142

<u>SUMMARY OF THE HOLIDAY ORDINANCE</u>
<u>1. Eligibility:</u>
Excluded employees:
A. Part time employees who are regularly scheduled to work less than twenty (20) hours per week;
B. Persons occupying or employed in on-call, temporary, or seasonal positions, or positions in which the incumbent is paid according to the community rate schedule; and
C. Employees who hold positions in classifications in the Undersheriff pay schedules.
<u>Source: D.R.M.C. §18-141</u>
<u>2. Paid holidays</u>

- ~~A. New Year's Day (January 1);~~
- ~~B. Martin Luther King Day (third Monday in January);~~
- ~~C. Washington's Birthday (third Monday in February);~~
- ~~D. Cesar Chavez Day (last Monday in March);~~
- ~~E. Memorial Day (last Monday in May);~~
- ~~F. Independence Day (July 4);~~
- ~~G. Labor Day (first Monday in September);~~
- ~~H. Veterans' Day (November 11);~~
- ~~I. Thanksgiving Day (fourth Thursday in November);~~
- ~~J. Christmas Day (December 25);~~
- ~~K. Personal holiday (one (1) personal holiday on a date agreed upon by the employee and the City to be used within the calendar year).~~

~~Source: D.R.M.C. §18-142~~

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

SUMMARY OF THE HOLIDAY ORDINANCE – continued

3. Observation of holiday

- ~~A. If any of the holidays listed above falls on a Sunday, then the following Monday shall be considered as the holiday. If any of the holidays listed above falls on a Saturday, then the preceding Friday shall be considered as the holiday.~~
- ~~B. An employee may be required to work on a holiday in order to maintain essential services to the public.~~

~~Source: D.R.M.C. §18-143~~

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

10-63 Observation of Holiday

A. Subject to the following provisions, all offices, agencies, commissions and departments of the city are hereby authorized and directed to grant to employees, with pay, the previously designated holidays.

1. If any of the holidays shall fall upon a Sunday, then the Monday following shall be considered as the holiday. If any of the holidays shall fall upon a Saturday, then the preceding Friday shall be considered as the holiday.

2. An employee may be required to work on a holiday in order to maintain essential services to the public.

Source: D.R.M.C. §18-143

~~10-52 Observing Holidays~~

~~A~~ **B.** When a holiday falls on an employee's regular day off, it shall be observed as follows:

1. If the holiday falls on the first day off, it shall be observed on the preceding workday.
2. If the holiday falls on the second or third regular day off, it shall be observed on the next workday.

~~B~~ **C.** Appointing authorities who require an employee to work on an observed holiday may schedule the employee's paid holiday leave to be taken on another day during that holiday week as long as the employee is provided with adequate notice of this change in advance of the holiday week.

~~10-54~~ **64 Amount of Paid Holiday Leave Received**

A. An eligible full-time employee shall receive eight (8) hours of paid holiday leave in a week in which a holiday occurs.

B. An eligible part-time employee regularly scheduled to work at least twenty (20) hours per week shall receive paid holiday leave as follows:

1. An employee who is regularly scheduled to work from twenty (20) to twenty-nine (29) hours per week shall receive four (4) hours of paid holiday leave.
2. An employee who is regularly scheduled to work from thirty (30) to thirty-nine (39) hours per week shall receive six (6) hours of paid holiday leave.

~~10-54~~ **65** Holiday Pay for Employees on Special Work Schedules

If the holiday falls on an employee's regularly scheduled work day and the work day is scheduled to be more than eight hours long, one of the following choices shall be selected by the employee, subject to approval by the appointing authority, to make up for the difference between the length of the work day missed and the eight hours of paid holiday leave allowed:

- A. Hours may be deducted from the employee's administrative leave granted for exemplary performance, earned compensatory time, earned paid time off, or earned vacation leave;
- B. The employee may work additional hours within the work week; or
- C. The employee may take the hours as unpaid leave.

~~10-55~~ **66** Compensation for Hours Worked in a Holiday Week

- A. In a week in which a holiday occurs, full-time employees receive eight hours of holiday leave and are expected to work (or use leave) for the remaining thirty-two (32) hours. Part-time employees are expected to work (or use leave) during the time left after the employee's paid holiday leave is deducted from the hours they are normally expected to work in a week.
- B. In addition, employees in classifications in exempt pay schedules shall receive straight time holiday compensatory time for the hours the employee actually works:
 - 1. a. On the day the employee is scheduled to observe the holiday that week, or
 - b. On any of his or her scheduled days off in a week when a holiday occurs; and

The employee is not entitled, under Rule 9 **PAY ADMINISTRATION**, to receive overtime for working on the holiday or regularly scheduled day off in that holiday week.

- 2. In no event shall an employee receive more hours of holiday compensatory time than the employee would have been entitled to receive as paid holiday leave in a holiday week.
- 3. Employees shall only receive holiday compensatory time to the extent that the combination of hours worked and paid leave used (including paid holiday leave) during a holiday week exceeds forty (40) hours.

4. At the discretion of the appointing authority, straight time pay may be substituted for the holiday compensatory time. Holiday compensatory time may be taken at any time mutually convenient to the employee and the appointing authority. However, all accrued holiday compensatory time shall be used by March 31st of each calendar year or paid out in cash by the final pay period of April of that year.

Section 10-~~66~~ 70 Other Paid Leave

10-~~66~~ 71 Compensatory Time

Compensatory time earned under the provisions of Rule 9 **PAY ADMINISTRATION** may be taken at any time mutually convenient to the employee and the appointing authority. However, all accrued compensatory time shall be used by March 31st of each calendar year or paid out in cash by the final pay period of April of that year.

10-~~67~~ 72 Administrative Leave

- A. Appointing authorities shall grant paid administrative leave for the following purposes:
 1. To present grievances or appeals to an official of the City or to represent an employee presenting a grievance or an appeal. However, if flexibility exists as to the exact date and time, the leave shall be granted at the convenience of the appointing authority;
 2. To participate in the Career Service Mediation Program. Administrative leave shall be granted to employees who participate in mediation either as a party or as the mediator ~~and to an employee who attends mediator training~~; or
 3. To represent another City employee at meetings with that employee's supervisor or manager, as set forth in Rule ~~45~~ **16 CODE OF CONDUCT AND DISCIPLINE**. The representative shall be allowed to take up to a maximum of four (4) hours of administrative leave per pay period so long as the use of such leave does not adversely affect the representative's department or agency and has been approved in advance **by the employee's supervisor.**
- B. Appointing authorities may grant paid administrative leave for the following purposes:
 1. To compete for positions in the Career Service, including all related interviews and examinations;
 2. To reward exemplary performance, such as Employee of the Quarter, Employee of the Year, or if the appointing authority wishes to recognize an employee's outstanding contribution to the agency. The appointing authority may grant, and an employee may use up to twenty (20) hours of administrative leave per calendar year for exemplary performance; or

3. When the appointing authority deems there is a business necessity, for a maximum of ten (10) calendar days per calendar year. The appointing authority may request an extension of up to twenty (20) calendar days from the OHR Executive Director. The OHR Executive Director may approve the request for an extension for good cause shown.

Granting or failing to grant administrative leave under this paragraph B shall not be subject to grievance or appeal.

10-~~64~~ **73** Paid Military Leave

- A. All probationary and career status employees in the Career Service shall be eligible for up to fifteen (15) days, but not to exceed one hundred twenty (120) hours of paid military leave each calendar year for the time the employee is engaged in military training or service.
- B. Notification Requirement: Employees engaged in military service or training requiring military leave shall provide notice in advance to their appointing authority, when possible. If the employee is unable to provide advance notice because of military necessity, the employee may give notice after starting duty.
- C. Employees who continue in military service beyond the time for which paid military leave is allowed shall be placed on unpaid military leave, which is covered by Rule 11 **UNPAID AND EXTENDED LEAVE**.

10-~~62~~ **74** Election Leave

Employees who are eligible to vote in an election are entitled to use up to two (2) hours of paid election leave for the purpose of voting during the time the polls are open, if an employee's work hours on the day of an election are such that there are less than three (3) hours between the time of opening and the time of closing of the polls during which the employee is not required to be on the job. Employees must request and receive approval for the leave prior to the election day. The appointing authority may specify the hours during which the employee may be absent, except that the employee shall be allowed to take the election leave at the beginning or end of the work shift if requested.

Source: C.R.S. §1-7-102

10-~~63~~ **75** Court Leave

- A. An employee shall be granted paid court leave during time the employee is regularly scheduled to work, if the employee is:
1. Required to serve as a juror in a court of law;
 - 2. Subpoenaed by the City and County of Denver to testify in a court of law;**
 - ~~2~~ **3.** Subpoenaed to testify in **a** court of law or administrative proceeding concerning matters arising out of the course of his or her employment; or
 - ~~3~~ **4.** Requested to serve as a witness in a court of law or administrative proceeding by his or her appointing authority or other authorized person to represent the City's interest in the legal proceedings.
- B. Court leave is intended only to apply to those time periods when the employee is needed for court service and for reasonable travel time between court and work.
- C. In order to receive court leave, an employee who is called for jury duty or to serve as a witness shall present the original summons or subpoena from the court to his or her supervisor and, at the conclusion of such duty, a signed statement from the Clerk of the Court or other evidence showing the actual time of attendance at court.
- D. Fees received for jury service in a Federal, State, or Municipal court shall be in addition to, and irrespective of, an employee's regular salary.

10-~~64~~ **76** Investigatory Leave

An appointing authority may place an employee on paid investigatory leave pending an investigation of a possible rule violation or failure to meet standards of performance as provided in Rule 16 **CODE OF CONDUCT AND DISCIPLINE**. Investigatory leave may be for no more than forty-five (45) calendar days, unless an extension of time has been approved by the OHR Executive Director.

10-~~65~~ 77 Training Leave

- A. Appointing authorities may grant paid training leave. Any training program for which such leave is granted must be job-related, which includes career development training that will prepare the employee for advancement with the City.
- B. Appointing authorities may grant training leave for the purpose of attending institutes, seminars, or educational courses related to an employee's work for extended periods of time, at the appointing authority's discretion.
- C. Appointing authorities shall allow paid trainees and paid interns to arrange their work schedule if they need to attend classes during normal working hours. Paid trainees 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 training or internship period. (Revised November 18, 2015; Rule Revision Memo 15D)
- D. Use of training leave by employees shall be arranged whenever possible during regularly scheduled work hours. Appointing authorities who require attendance at training activities during off-duty hours that are designed to increase the competencies, knowledge, skills and abilities of employees for the position which they presently occupy shall temporarily change the affected employee's standard work hours to include the training schedule. Employees who are required to attend such training during off-duty hours shall be granted paid training leave for the time spent in training.
- E. For the purposes of this subsection, on-line training courses shall be treated the same as classroom training sessions.
- F. Employees must present proof of attendance at any training for which they are authorized to receive training leave.

10-~~68~~ 78 Occasional Time Off

Exempt employees may be allowed paid occasional time off to attend to personal affairs, at the discretion of the appointing authority.

RULE 11
UNPAID AND EXTENDED LEAVE
(~~Revised January 1, 2010; Rule Revision Memo 42C~~)

Purpose statement:

The purpose of this rule is to provide guidelines and policies for administering unpaid leave ~~time off through the City's leave programs.~~ **For rules regarding extended illness or injury leave please see Rule 12 LEAVE FOR EXTENDED ILLNESSES OR INJURIES.**

Section 11-10 Leave Defined
(~~Revised June 11, 2012; Rule Revision Memo 63C~~)

Leave: ~~is defined as~~ Any absence during regularly scheduled work hours. The following types of unpaid and extended leave are **covered in this rule** ~~officially established and shall be in effect unless otherwise provided by ordinance:~~

- A. Authorized;**
- B. Unauthorized;**
- C. Leave for victims of violence;**
- D. Budget-required furlough;**
- E. Military (unpaid).**

- ~~A. Military;~~
- ~~B. Disability leave and Workers' Compensation leave;~~
- ~~C. Leave without pay~~
- ~~D. Unauthorized;~~
- ~~E. Parental involvement;~~
- ~~F. Family Medical Leave ("FMLA");~~
- ~~G. ADA leave (Revised December 20, 2012; Rule Revision Memo 65C).~~

Section 11-15 Designees

Appointing authorities, including the Office of Human Resources ("OHR") Executive Director, may delegate any authority given to them under this rule to a subordinate employee.

(~~Sections 11-20 through 11-30 reserved for future use~~)

Section 11-20 General Provisions

11-21 Authorized Unpaid Leave

Section 11-80 Leave without Pay

11-81 Policy

~~Leave without pay may be granted to an employee for any good cause when it is in the interest of the City and the employee to do so. An appointing authority may grant an employee leave without pay for up to ninety (90) days. The agency or department head may approve ninety (90) day extensions. Any appointment made to the position vacated by an employee on leave without pay shall be conditional upon the return of the employee on leave. If an employee's leave without pay is also designated as FMLA leave, the leave without pay and FMLA leave shall run concurrently.~~

Appointing authorities may permit the use of unpaid leave by employees who either do not have paid leave available or who have requested permission to use unpaid leave when it is in the interest of the City to do so.

11-22 Unauthorized Unpaid Leave

Section 11-90 Unauthorized Absence for Non-exempt Employees

- ~~A. **Non-exempt employees:** A non-exempt employee who is absent from duty without approval shall receive no pay for the duration of the absence. Such denial of pay shall not affect the right of the City or any of its agencies to invoke any form of disciplinary action which it deems appropriate, up to and including dismissal.~~
- ~~B. **Exempt employees:** Subject to the exceptions provided below, an employee need not be paid for any work week in which he or she performs no work:~~
- ~~1. The pay of exempt employees shall be reduced, on an hourly basis, for absences of less than a day when the absence is due to sickness or personal reasons; and~~
 - ~~a. The employee did not request leave; or~~
 - ~~b. A request for leave was denied; or~~
 - ~~c. The employee has no available leave; or~~
 - ~~d. The employee requested, and was granted, leave without pay.~~
 - ~~2. Exempt employees may be allowed occasional time off with pay to attend to personal affairs, at the discretion of the appointing authority.~~

A. Absences from work shall be treated as unauthorized, unpaid leave:

- 1. When an employee has not requested permission to use a type of leave for which permission is required; or**
- 2. When a leave request has been denied; or**
- 3. When an employee has not complied with reporting procedures; or**
- 4. Which are not otherwise authorized under these rules.**

B. Employees on unauthorized, unpaid leave may be subject to discipline, up to and including dismissal.

11-23 Exempt and Non-exempt Employees

A. An exempt employee on unpaid leave shall have his or her pay reduced on an hourly basis for the duration of the absence when the absence is less than a day and is due to sickness or personal reasons, and:

- 1. The employee did not request leave; or**
- 2. A request for leave was denied; or**
- 3. The employee has no available leave; or**
- 4. The employee requested, and was granted unpaid leave.**

B. Non-exempt employees on unpaid leave shall receive no pay for the duration of the absence.

11-24 Maintenance of Benefits During Extended Absences

This section applies to the maintenance of benefits during extended absences except as otherwise provided in these rules.

~~11-82 Granting Voluntary Leave without pay~~

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

~~A. Return:~~

~~At the expiration of leave without pay, the employee shall return to the position he or she held prior to the leave (Revised May 7, 2012; Rule Revision Memo 62C).~~

~~B. Pay Increase and Fringe Benefits:~~

A. ~~First 30~~ **Thirty Days of Unpaid Leave** ~~without Pay:~~

The first thirty (30) consecutive calendar days of **authorized**, voluntary **unpaid** leave ~~without pay~~ in a calendar year, ~~which is approved by the employee's supervisor,~~ shall have no effect on the following:

1. City contributions to health, dental, and life insurance; or
2. **Accrual of paid time off (PTO)**, sick and vacation leave ~~credits~~, and holiday eligibility.

B. ~~After 30~~ **Thirty Days but Before One Hundred and Eighty-one** ~~180~~ **Days:**

After the first thirty (30) consecutive calendar days of **authorized**, voluntary **unpaid** leave **in a calendar year** ~~without pay:~~

1. City contributions to health, dental, and life insurance shall be discontinued, except for **employees on Family and Medical Leave Act ("FMLA")** leave; **and**
2. **Employees will no longer be able to earn PTO, sick and vacation leave, or paid holidays.**

C. ~~After 180~~ **One Hundred and Eighty** **Days:**

After the first one hundred and eighty (180) consecutive calendar days of **authorized**, voluntary **unpaid** leave ~~without pay~~, City contributions to health, dental, and life insurance shall be discontinued **for all employees.**

~~Employees on leave without pay for more than one hundred and eighty (180) consecutive calendar days may maintain benefit coverage by depositing the full monthly premium for such benefits with the payroll clerk for the unit from which the employee is on leave.~~

~~Only employees on FMLA leave may pay for the cost of contributing the health care benefits, dental benefits, and life insurance by:~~

D. 1. **An employee may pay the cost of continuing his or her health, dental, and life insurance, as well as any supplemental insurance coverage(s), such as vision and supplemental life insurance, during extended absences from work by:**

- a 4. **Depositing the amount due with the OHR every month; or** ~~Depositing monthly, the employee's share of the premium for such benefits with the payroll clerk for the unit from which the employee is on leave or~~

~~b 2. By Taking at least one day of paid leave from which the **amount due** cost of contributions to health, dental, and life insurance shall be deducted.~~

~~2. **An employee's failure to pay the cost of continuing insurance coverage** Failure to contribute to the cost of the benefits or insurance shall result in the discontinuance of such benefits or insurance consistent with the FMLA.~~

~~Employees on leave without pay who are not on FMLA leave may only maintain benefit coverage by depositing the full monthly premium for such benefits with the payroll clerk for the unit from which the employee is on leave.~~

11-25 Other Provisions Regarding Extended Unpaid Leave

~~A C. **No break in service:** An **period of unpaid** leave without pay shall not constitute a break in service.~~

~~B D. **During probationary period:** **A period of unpaid** leave without pay for more **lasting longer** than one hundred and eighty (180) consecutive calendar days **and occurring** during the **an employee's** probationary period shall not be counted as part of that period ~~but the employee to whom such leave has been granted shall be allowed to complete his or her probationary period upon return from leave.~~ **The employee to whom such leave has been granted will resume his or her probationary period upon returning from the period of unpaid leave.**~~

~~C. **At the expiration of a period of unpaid leave, the employee shall return to the position and classification he or she held before going on leave. Failure to report promptly at the expiration of a period of unpaid leave shall be considered to be a resignation.**~~

~~E. **Notification of the OHR:** The OHR shall be advised, in writing, of leave without pay granted for fifteen (15) consecutive calendar days or more.~~

11-26 Leave for Victims of Violence

Employees may use up to three days of unpaid leave to address issues arising from violence the employee has suffered (as defined in Executive Order 112), including but not limited to, obtaining a restraining order, obtaining medical care or counseling, locating safe housing, or preparing for or attending legal proceedings. The employee may elect to use available paid leave, instead of unpaid leave, to cover the absence. Appointing authorities may authorize the use of additional leave, or temporarily adjust an employee's work schedule to allow a victim of violence to obtain necessary medical care, housing, counseling, legal, or other related assistance.

11-~~27~~ ~~83~~ Budget Required Furlough

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

- A. This Rule is intended to comply with the Fair Labor Standards Act regulation 29 C.F.R. § 541.710, which permits furloughs for budgetary reasons without affecting the exemption status of an overtime exempt employee except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.
- B. Furloughs of overtime exempt employees may be taken in work day or workweek increments. During the workweek in which an overtime exempt employee takes one or more furlough days, the furlough hours taken and the hours worked plus any leave taken by the exempt employee should not total more than forty (40) hours. A work day is eight (8) hours for the purposes of this rule.
- C. Furloughs of non-exempt employees need not be taken in work day or work week increments but cannot be taken ~~shall be debited~~ in no less than two (2) hour increments.
- D. The Mayor may exempt certain employees ~~of the Career Service~~ from a mandatory furlough in order to maintain essential City services or for other necessary business reasons.

~~E. At the expiration of the furlough, the employee shall return to the position held prior to the furlough.~~

E F. During the period of time in which the Mayor has declared mandatory furloughs, employees, ~~upon the agreement and prior approval of their appointing authority,~~ may take additional voluntary furlough days with the prior approval of the employee's appointing authority, up to a maximum of forty five (45) voluntary furlough days. ~~Employees are not required to take voluntary furlough days.~~ Except as otherwise provided, the same rules apply to voluntary furloughs that apply to mandatory furloughs.

F G. ~~Pay increases and employees~~ Maintenance of benefits:
(~~Revised January 1, 2011; Rule Revision Memo 51C~~)

An employee on a furlough is entitled to:

a. Have the City continue paying its share of the employee's health, dental, and life insurance premiums.

b. Earn PTO, or sick and vacation leave, and

c. Receive paid holiday leave for holidays observed during a furlough. During the first thirty consecutive calendar days of a furlough, furlough days will be treated as days worked for the purposes of determining whether the employee worked on the scheduled work days immediately preceding and immediately following the day on which the holiday is observed.

~~A. mandatory furlough or voluntary furlough shall have no effect on the following:~~

- ~~1. City contributions to health, dental and life insurance during the furlough period;~~
- ~~2. PTO, sick and vacation leave credits accrued during the furlough period; or~~
- ~~3. Holiday eligibility.~~

~~H. Mandatory furlough or voluntary furlough shall not constitute a break in service (Revised May 7, 2012; Rule Revision Memo 62C).~~

~~I. During the period of time in which there are mandatory furloughs, the first forty-five (45) days of unpaid FMLA or ADA Interactive Process Leave shall be treated as voluntary furlough days.~~

G ~~J.~~ Nothing herein precludes the Mayor from designating specific furlough days or otherwise determining how to implement mandatory furloughs.

~~Section 11-40 Disability Leave and Workers' Compensation Leave
(Revised June 11, 2012; Rule Revision Memo 63C)~~

~~11-41 Disability Leave~~

~~A. The City provides paid disability leave amounting to eighty percent (80%) of an employee's gross salary for up to ninety (90) consecutive calendar days from the date of injury for each occupational injury or occupational disease arising out of and within the course and scope of employment with the City (see Disability Leave Ordinance, attached as Appendix A).~~

~~B. An employee on disability leave shall not be permitted to use other available paid leave concurrently with the disability leave.~~

~~11-42 Workers' Compensation Leave~~

~~A. An employee who remains unable to return to work after the disability leave allowed by the Denver Revised Municipal Code expires, and is receiving temporary disability benefits under the provisions of the Workers' Compensation Act of Colorado, as amended, Title 8, Articles 40-47, C.R.S. ("the Act"), will be permitted to use Workers' Compensation leave for absences from work resulting from the employee's occupational injury or occupational disease arising out of and within the course and scope of employment with the City, until it is determined that the employee is no longer eligible to receive temporary disability benefits pursuant to the Act.~~

~~B. Workers' Compensation leave is unpaid leave, except to the extent an employee elects to use available paid leave to make up the difference between eighty percent (80%) of the employee's gross salary and the temporary disability benefits the employee receives under the provisions of the Act.~~

~~11-43 Applicability of Family Medical Leave Act~~

~~A. The department or agency shall designate an employee's disability leave and/or Workers' Compensation leave as FMLA leave if the requirements of the applicable Career Service and Federal statutes and regulations are met.~~

~~B. If an employee's disability leave and/or Workers' Compensation leave is also designated as FMLA leave, the disability leave and/or Workers' Compensation leave shall run concurrently with the FMLA leave.~~

~~11-44 Maintenance of Benefits~~

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

~~A. Eligible to earn PTO, or sick and vacation leave as provided in section 11-80 of this Rule 11;~~

~~B. Eligible to receive paid holiday leave for holidays observed during the period of disability and/or Workers' Compensation leave as provided in Rule 10 **PAID LEAVE**;~~

~~C. Eligible to have the City continue paying its share of the employee's medical, dental, and life insurance premiums during the period of disability and/or Workers' Compensation leave, so long as the employee continues to pay his or her share of the insurance premiums.~~

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

~~A. Employees who are no longer eligible for temporary benefits under the Act are not eligible to continue receiving disability leave or Workers' Compensation leave.~~

~~B. If the employee's permanent restrictions prohibit the employee from returning to work full time and/or full duty after having reached Maximum Medical Improvement, the appointing authority shall initiate the interactive process as provided in Rule 5 **APPOINTMENTS AND STATUS**, within twenty (20) days of the expiration of the employee's eligibility for disability leave or Workers' Compensation leave, unless the employee is also on FMLA leave.~~

Section 11-~~30~~ **59 Unpaid** Military Leave ~~Without Pay~~

- A. Employees who continue in military service beyond the initial one hundred twenty (120) hours for which paid military leave is allowed under Rule 10 **PAID LEAVE** shall be placed on unpaid military leave.
- B. This rule is intended to comply with and be interpreted consistently with the Uniformed Services Employment and Reemployment Rights Act ("USERRA"). To the extent an issue is not addressed in this rule, or to the extent this rule is inconsistent with the USERRA, the USERRA and its corresponding regulations shall govern.
- C. ~~A career status or probationary employee who continues in military service beyond the time for which leave with pay is allowed shall be placed on military leave without pay.~~ Such Request ~~s~~ for **unpaid** military leave without pay shall **may** be made **verbally or in writing, and shall be made** in advance, when possible, in writing or by oral notification. ~~In the event of military necessity, If **an** the employee is unable to provide advance notice **due to military necessity**, the employee may give notice after starting duty.~~
- D. ~~An employee in military leave without pay status may be eligible for a military pay differential. A military pay differential is for Employees who are called to active military duty with written orders for services exceeding one hundred and seventy nine (179) days because of war or national emergency **may be eligible for a military pay differential.**~~

11-~~31~~ **54 Granting **Unpaid** Military Leave ~~without pay~~**

Unpaid military leave ~~without pay~~ shall be subject to the following provisions:

- A. Duration:

~~**Unpaid** military leave ~~without pay~~ shall be granted for the duration of active military service not to exceed five (5) years plus ninety (90) days from the date of discharge, **subject to exceptions set forth in USERRA and its corresponding regulations** provided that extensions shall be granted where the employee is required to serve a longer period of time involuntarily because of a war or national emergency.~~

B. **Maintenance of Benefits** ~~Effect on paid time off, sick and vacation leave:~~

~~Paid time off ("PTO"), sick and vacation leave credits shall not be earned during military leave without pay that lasts over thirty (30) consecutive calendar days.~~

1. First Thirty Days of Military Leave:

The first thirty (30) consecutive days of military leave (paid and unpaid) shall have no effect on the following:

a. City contributions to health, dental, and life insurance; and

b. Accrual of PTO or sick and vacation leave, and holiday eligibility.

2. After Thirty Days of Military Leave:

~~C. Effect on health & supplemental benefits:~~

a. 1. ~~During military leave without pay, the employer continues to subsidize an employee's group health care benefits for up to thirty (30) days. Employees absent on military leave~~ **(paid and unpaid)** ~~without pay for thirty-one (31) days or longer, are eligible for health benefit coverage from the military. In addition, an employee on military leave without pay for thirty-one (31) days or longer~~ **may** ~~can~~ arrange to continue his or her individual and/or family coverage under the City's group health plan for the duration of military leave ~~without pay.~~ Employees opting for continuing coverage under the City's group health plan are responsible for paying 100% of the premium costs.

2. ~~During military leave without pay, the employee~~ **may** ~~can~~ arrange to continue supplemental insurance coverage(s), such as dental, vision, ~~short-term disability,~~ and supplemental life insurance, for the duration of military leave ~~without pay.~~ Employees opting for continuing supplemental insurance coverage are responsible for paying 100% of the premium costs.

b. Paid time off ("PTO"), sick and vacation leave shall not be earned during ~~unpaid~~ military leave that lasts over thirty (30) consecutive calendar days, **and employees on such extended leave will not be eligible for paid holiday leave.**

C. Employees may use any available paid leave (except sick leave) for some or all of their unpaid military leave.

D. Break in service:

Unpaid military leave ~~without pay~~ shall not constitute a break in service.

E. Completion of probationary period:

~~An employee who returns after thirty (30) days or longer from military leave without pay who held employment probationary status at the time of military leave without pay.~~ A probationary employee who is on unpaid military leave for thirty (30) days or longer shall **be considered to** have attained career status upon **if the employee** returns to work **after the employee's end of probation date.**

11-~~32~~ 52 Return from **Unpaid** Military Leave ~~without pay~~
(Revised January 1, 2011; Rule Revision Memo 51C)

Employees returning from unpaid military leave ~~without pay~~ after an absence of ninety (90) days or less shall return to their former position. Employees returning after ninety-one (91) days or longer shall return to their former position or a job of equal status and pay, subject to the following provisions:

A. Due date for notice of return:

Upon completing military service, an employee on military leave (whether paid or unpaid) must notify his or her appointing authority of the employee's intent to return to work. The amount of notice ~~time for return from military leave without pay that is provided to the appointing authority~~ required depends is dependent upon the amount of time served.

1. ~~The Employee~~ s who served longer than one hundred eighty (180) days shall give must make notice for return from military leave without pay within ninety (90) days after completing service from the date of discharge from military service if the military duty lasted longer than one hundred eighty (180) days.
2. Employees who served thirty-one (31) to one hundred eighty (180) days shall give notice within fourteen (14) days after completing service of discharge.
3. Employees who serve d less than thirty-one (31) days shall give notice within have three (3) days after completing service from discharge to give notice.

B. Certificate of satisfactory completion of military service:

A return from unpaid military leave ~~without pay~~ shall be conditional upon submission of a certificate confirming release from active duty under honorable conditions of satisfactory completion of military service.

C. Effect of hospitalization for service connected medical condition:

In the event that the employee was hospitalized after **military** discharge for medical conditions which occurred during the military service, the employee's **unpaid** military leave ~~without pay~~ shall be extended ~~not up to exceed~~ two (2) years. Application for return from **unpaid** military leave ~~without pay~~ must be made within ninety (90) days **after the employee's medical provider releases him or her to return to work** discharge from hospitalization. Extensions **beyond two (2) years** may be granted ~~due to circumstances beyond the employee's control.~~

D. Qualifications for return from military service:

The employee must be physically and mentally qualified and possess the necessary skills, knowledge and/or training to perform the essential functions **of the position to which the employee is returning** with or without reasonable accommodations ~~of the position to which the employee is returning.~~ The City will provide appropriate training to returning employees.

E. Effect of service connected disability:

If the employee is not qualified to perform the essential functions **of the position** with or without reasonable accommodations ~~of the position left~~ by reason of disability sustained during active military service, the appointing authority may transfer the employee to any other available position, the duties of which the employee is qualified to perform and which will provide like seniority, status and pay, or the nearest approximation thereof, as the employee achieved in the position from which he or she was granted military leave.

F. Effect of failure to give notice for return:

Failure to give notice for return from **unpaid** military leave ~~without pay~~ within the time limits stated ~~shall~~ **may** be considered a resignation.

11-~~33~~ 53 Military Pay Differential

A. Career Service employees who are called to active military duty in time of war or national emergency are eligible for a military pay differential as provided by the Denver Revised Municipal Code ~~(See Appendix).~~

B. A written request for military pay differential shall be made by an eligible employee to the employee's department or agency as soon as possible after the employee's return to City employment using the application form ~~prepared~~ **provided** by the OHR. Requests for military pay differential may also be made while the employee is on military leave.

- C. The employee shall provide copies of the following documents:
1. Written military orders for reporting and/or discharge;
 2. Leave and earnings statements from the military;
 3. All military pay vouchers, including vouchers for temporary duty and travel; and
 4. Any other documentation deemed necessary to process the request by the OHR Executive Director, which may include documentation that **or** the Department of Finance advises the OHR Executive Director is necessary.
- D. Any overpayment of funds to the employee shall be reimbursed to the City in accordance with the City's Fiscal Accountability Rules.

~~(Sections 11-60 through 11-70 reserved for future use)~~

~~(Sections 11-100 through 11-120 reserved for future use)~~

Section 11-130 Parental Involvement Leave

~~It is the policy of the Career Service Board to provide leave for academic activities as required under the Parental Involvement in K-12 Education Act (C.R.S. §8-13.3-101 et seq.).~~

~~A. Definitions~~

~~1. Academic activity: Means:~~

- ~~a. A parent teacher conference; or~~
- ~~b. A meeting related to any of the following topics;

 - ~~i. Special education services;~~
 - ~~ii. Response to intervention;~~
 - ~~iii. Dropout prevention;~~
 - ~~iv. Attendance;~~
 - ~~v. Truancy; or~~
 - ~~vi. Disciplinary issues.~~~~

~~School activities not included on the list above, including, but not limited to athletic or artistic events, are not considered to be academic activities for the purposes of this rule.~~

~~2. Academic year: Means the period, not to exceed twelve (12) consecutive months, allotted by a school for the completion of one grade level of study.~~

~~3. Eligible employee: Includes all Career Service employees.~~

~~4. Eligible employee's child: Means a child who is enrolled in a public school, private school, or in a non-public home-based educational program, in any grade between kindergarten and twelfth grade, for whom the eligible employee is parent, legal guardian, or is acting in the place of a parent.~~

~~B. Amount of leave allowed: Eligible employees are entitled to use parental involvement leave in an academic year to attend academic activities for or with the eligible employee's child as follows:~~

~~1. Full time eligible employees are entitled to use eighteen (18) hours of parental involvement leave in an academic year.~~

~~2. Part-time eligible employees are entitled to use a percentage of the eighteen (18) hours of parental involvement leave that corresponds to the percentage of a forty (40) hour work week that they are regularly scheduled to work.~~

~~C. Notification requirements:~~

~~1. An employee shall provide the department or agency with notice of the need for leave at least seven (7) calendar days in advance of the academic activity. Such notice shall include written verification from the school or school district of the academic activity.~~

~~2. In the case of an emergency where the employee is not aware of the need for leave seven (7) calendar days in advance, the employee shall provide the department or agency with notice of the leave as soon as possible after becoming aware of the academic activity. Written verification shall be provided upon the employee's return to work.~~

~~D. Limitations on use:~~

~~1. An employee shall make a reasonable attempt to schedule academic activities outside of regular work hours.~~

~~2. Eligible employees are not entitled to use more than six (6) hours of parental involvement leave in any one month period. A department or agency may require that parental involvement leave be taken in no longer than three (3) hour increments.~~

~~3. A department or agency may limit the ability of an eligible employee to take parental involvement leave in cases of emergency, or where a person's health or safety may be endangered, or where the absence of the employee would result in a halt of service or production.~~

~~E. Substitution of paid leave: Parental involvement leave is unpaid leave, unless an eligible employee elects to substitute PTO, sick leave, donated leave, vacation leave or other accrued paid leave for unpaid parental involvement leave.~~

~~(Section 11-140 reserved for future use)~~

~~Section 11-150 Family & Medical Leave Act Policy~~

~~It is the policy of the Career Service Board to provide leave under the Family & Medical Leave Act of 1993 ("FMLA") to eligible employees. The purpose of FMLA leave is to provide up to twelve weeks of job-protected leave in a twelve-month period to eligible employees for specified immediate family and medical reasons. This rule is intended to comply with and be interpreted consistent with the FMLA and its corresponding regulations. To the extent an issue is not addressed herein, the FMLA and its corresponding regulations shall govern.~~

~~11-151 When Leave under the Family & Medical Leave Act May be Used~~

~~FMLA leave shall only be available:~~

- ~~A. For the birth and care of a newborn child of the employee (including a newborn child born into a domestic partnership);~~
- ~~B. For placement with the employee or the employee's domestic partner of a child for adoption, foster care or legal guardianship;~~
- ~~C. To care for an employee's immediate family member with a serious health condition; or~~
- ~~D. To take leave when the employee is unable to perform the functions of the employee's job because of a serious health condition.~~

~~11-152 Eligibility for FMLA leave~~

~~Any employee who has been employed by the City for at least twelve (12) months and who has worked at least twelve hundred and fifty (1,250) hours in the twelve (12) months preceding the beginning of the leave shall be eligible for FMLA leave.~~

~~11-153 Requesting FMLA leave~~

- ~~A. An employee may expressly request FMLA leave, or may merely state that he or she needs leave for a reason which the appointing authority knows is a qualifying reason for FMLA leave. In either instance, the appointing authority shall notify the employee that the leave may qualify as FMLA leave and request and provide information in accordance with this rule.~~
- ~~B. In any situation where the need for FMLA leave is foreseeable, an employee shall provide thirty (30) days' notice or such notice as is practicable.~~
- ~~C. In any situation where the need for FMLA leave is not foreseeable, the employee shall provide such notice as is practicable. Such notice may be provided by the employee or the employee's spokesperson if the employee is unable to do so~~

~~personally. The employee or the employee's spokesperson will provide more information as required by the appointing authority when it can be readily accomplished as a practical matter.~~

~~D. An employee requesting FMLA leave must provide to the appointing authority all information necessary to determine if such leave is appropriate, including:~~

- ~~1. The reasons for the leave so as to allow the appointing authority to determine if the conditions identified in 11-151 have been met.~~
- ~~2. The anticipated start of the leave.~~
- ~~3. The anticipated duration of the leave.~~
- ~~4. Whether or not the employee has a spouse or domestic partner who is also an employee of the City and County of Denver.~~
- ~~5. A health care provider certification on a form provided by the appointing authority consistent with the FMLA.~~

~~Information provided to the appointing authority regarding an employee's FMLA leave shall be maintained in a confidential file separate from the employee's personnel file.~~

~~E. A request for FMLA leave which does not satisfy the conditions identified in 11-151 may be denied or delayed.~~

~~F. A denial of a request for FMLA leave shall not preclude granting PTO or sick leave if the conditions identified in these rules are met.~~

~~11-154 Use of FMLA leave~~

~~A. No more than twelve (12) workweeks of FMLA leave may be used in any twelve (12) month period. The twelve (12) month period shall begin when FMLA leave was first used by an employee.~~

~~B. FMLA leave shall be granted consecutively, intermittently or on a reduced leave schedule, as provided for under the FMLA. Provided, however, if an employee requests FMLA leave intermittently or on a reduced leave schedule after the birth or placement of a child for adoption, foster care or legal guardianship, such leave shall be granted if it is consistent with the reasonable operational necessity of the agency, as determined by the appointing authority.~~

~~C. It is the appointing authority's responsibility to designate qualifying leave as FMLA leave and the appointing authority shall notify the employee of such designation and provide other required information about FMLA leave. An employee may not refuse to allow the appointing authority to designate qualifying leave as FMLA leave.~~

~~D. FMLA leave is unpaid leave, unless an employee elects to substitute available paid leave for unpaid FMLA leave, subject to the limitations in this Rule 11 on the~~

~~use of paid leave while on disability leave or Workers' Compensation leave (Revised June 11, 2012; Rule Revision Memo 63C).~~

~~E. In the case where both spouses or domestic partners are employees, the amount of FMLA leave available shall be determined as follows:~~

~~1. When the leave is because of birth, adoption, foster care or legal guardianship of a child, or serious health condition of a member of either employee's immediate family (other than a child, spouse or domestic partner), the FMLA leave available shall be the combined total of twelve (12) weeks of FMLA leave during any twelve (12) month period.~~

~~2. When the leave is because of a serious health condition of either or both employees or a child, twelve (12) weeks of FMLA leave may be used by each employee in any twelve (12) month period.~~

~~11-155 Secondary employment during FMLA leave~~

~~Appointing authorities may deny secondary employment during FMLA leave.~~

~~11-156 Investigation of Use of FMLA leave~~

~~Appointing authorities may investigate the use of FMLA leave consistent with the FMLA, including by a requiring a second opinion and third opinion, if appropriate. Misuse of FMLA leave may be cause for disciplinary action up to and including dismissal. An appointing authority may not discipline an employee for appropriate use of FMLA leave.~~

~~11-157 Re-assignment~~

~~If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on the planned medical treatment for the employee or an immediate family member, or if the appointing authority agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption, foster care or legal guardianship, the appointing authority may require the employee to transfer temporarily, during the period the intermittent or reduce leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position.~~

~~11-158 Maintenance of Benefits~~

~~A. It shall be the responsibility of an employee on unpaid FMLA leave to provide that share of payment(s) necessary to maintain health insurance coverage as directed by the appointing authority.~~

~~B. During any FMLA leave, the City must maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period.~~

~~11-159 Return from FMLA Leave~~

- ~~A. An employee returning from FMLA leave due to his or her own serious health condition shall provide a certification from the employee's health care provider that the employee is able to resume work. An employee further may be required to report periodically on the employee's status and intent to return to work.~~
- ~~B. An employee returning from FMLA leave shall be returned to the same position the employee held when leave began or to an equivalent position which is defined by the FMLA regulations as a position that is virtually identical to the employee's former position in terms of pay, benefits and working conditions.~~
- ~~C. An employee need not be re-instated if the employee would not otherwise have been employed at the time re-instatement is requested.~~
- ~~D. When an employee returning from FMLA leave is not qualified or able to perform the essential functions of the position to which the employee was returned, the employee shall be given a reasonable opportunity in which to become qualified or seek accommodation so long as such accommodation is required by and consistent with the Americans with Disabilities Act ("ADA").~~
- ~~E. If the employee is unable to return to work at the conclusion of FMLA leave, the appointing authority shall initiate the interactive process as provided in Rule 5 **APPOINTMENTS AND STATUS**, within twenty (20) days of the expiration of the employee's FMLA leave, unless the employee is also on disability leave or Workers' Compensation leave (Revised June 11, 2012; Rule Revision Memo 63C).~~

~~11-160 Additional information regarding the FMLA~~

~~Appointing authorities shall post information and otherwise provide information regarding the FMLA as required by the FMLA. In addition, information may be found on the United States Department of Labor's website, www.dol.gov.~~

~~Section 11-170 ADA Leave~~

- ~~A. ADA leave shall be provided:~~
- ~~1. During the interactive process if an employee is unable to perform 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 interactive process.~~
- ~~B. ADA leave is unpaid leave, unless an employee elects to substitute available paid leave for unpaid ADA leave.~~

~~APPENDIX 11.A.~~

~~DENVER REVISED MUNICIPAL CODE
CHAPTER 18 — EMPLOYEE AND OFFICER PAY AND BENEFITS
ARTICLE V. — LEAVE AND HOLIDAYS
DIVISION 4 — DISABILITY LEAVE~~

~~Sec. 18-151. Definitions.~~

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

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

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

RULE 12
LEAVE FOR EXTENDED ILLNESSES OR INJURIES

Purpose statement:

The purpose of this rule is to provide guidelines and policies for administering extended time off caused by illness or injury.

Section 12-10 Types of Leave Covered by this Rule

- A. Family and Medical Leave Act (“FMLA”) leave;**
- B. Salary continuation leave and Workers’ Compensation leave;**
- C. American with Disabilities Act (“ADA”) leave in connection with the ADA Interactive Process.**

Section 12-15 Designees

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

Section ~~12-20~~ 11-150 Family & Medical Leave Act **FMLA Policy**

It is the policy of the Career Service Board to provide leave under the ~~Family & Medical Leave Act of 1993 (“FMLA”)~~ to eligible employees. The purpose of FMLA leave is to provide up to twelve weeks of job-protected leave in a twelve-month period to eligible employees for specified immediate family and medical reasons. This rule is intended to comply with and be interpreted consistent with the FMLA and its corresponding regulations. To the extent an issue is not addressed herein, **or if there is a conflict with a Career Service Rule,** the FMLA and its corresponding regulations shall govern.

~~12-21~~ 11-151 When Leave under the Family & Medical Leave Act **FMLA May be Used**

FMLA leave shall only be available:

- A. For the birth and care of a newborn child of the employee (including a newborn child born into a domestic partnership);
- B. For placement with the employee or the employee’s domestic partner **(as defined in Rule 10 PAID LEAVE)** of a child for adoption, foster care or legal guardianship;
- C. To care for an employee’s **parent, spouse or domestic partner, or child** ~~immediate family member~~ with a serious health condition; ~~or~~

D. To take leave when the employee is unable to perform the functions of the employee's job because of a "serious health condition" as defined in the FMLA and its corresponding regulations; or

E. For any other reason authorized by the FMLA.

12-22 11-152 Eligibility for FMLA leave

Any employee may be eligible for FMLA leave if the employee who has:

A. Been employed by the City for at least twelve (12) months in the last seven (7) years; and

B. ~~who has~~ Worked at least twelve hundred and fifty (1,250) hours in the twelve (12) months immediately preceding the beginning of the ~~leave shall be eligible for~~ FMLA leave.

12-23 11-153 Requesting FMLA leave

A. An employee may expressly request FMLA leave, or may merely state that he or she needs leave for a reason which the appointing authority knows is a qualifying reason for FMLA leave. In either instance, the appointing authority shall notify the employee that the leave may qualify as FMLA leave and request and provide information in accordance with this rule.

B. In any situation where the need for FMLA leave is foreseeable, an employee shall provide thirty (30) days notice or such notice as is practicable.

C. In any situation where the need for FMLA leave is not foreseeable, the employee shall provide such notice as is practicable. Such notice may be provided by the employee or the employee's spokesperson if the employee is unable to do so personally. The employee or the employee's spokesperson will provide more information as required by the appointing authority when it can be readily accomplished as a practical matter.

D. An employee requesting FMLA leave must provide to the appointing authority all information necessary to determine if such leave is appropriate, including:

1. The reasons for the leave so as to allow the appointing authority to determine if the conditions identified in subsection 12-21 of this Rule 11-154 have been met.
2. The anticipated start of the leave.
3. The anticipated duration of the leave.
4. Whether or not the employee has a spouse or domestic partner who is also an employee of the City and County of Denver.

5. A health care provider certification on a form provided by the appointing authority consistent with the FMLA.

Information provided to the appointing authority regarding an employee's FMLA leave shall be maintained in a confidential file separate from the employee's personnel file.

- E. A request for FMLA leave which does not satisfy the conditions identified in **subsection 12-21 of this Rule** ~~11-154~~ may be denied or delayed.
- F. A denial of a request for FMLA leave shall not preclude granting PTO or sick leave if the conditions identified in these rules are met.

12-24 ~~11-154~~ Use of FMLA leave

- A. No more than twelve (12) workweeks of FMLA leave may be used in any twelve (12) month period. The twelve (12) month period shall begin when FMLA leave was first used by an employee.
- B. FMLA leave shall be granted consecutively, intermittently or on a reduced leave schedule, as provided for under the FMLA. Provided, however, if an employee requests FMLA leave intermittently or on a reduced leave schedule after the birth or placement of a child for adoption, foster care or legal guardianship, such leave shall be granted **only** if it is consistent with the reasonable operational necessity of the agency, as determined by the appointing authority.
- C. It is the appointing authority's responsibility to designate qualifying leave as FMLA leave and the appointing authority shall notify the employee of such designation and provide other required information about FMLA leave. An employee ~~may~~ **can** not refuse to allow the appointing authority to designate qualifying leave as FMLA leave.
- D. FMLA leave is unpaid leave, unless an employee elects to substitute available paid leave for unpaid FMLA leave, subject to the limitations in this Rule ~~12~~ **12** on the use of paid leave while on **salary continuation** ~~disability~~ leave or Workers' Compensation leave (~~Revised June 11, 2012; Rule Revision Memo 63C~~).

E. In the case where both spouses or domestic partners are employees, the amount of FMLA leave available shall be determined as follows:

1. When the leave is because of birth, adoption, foster care or legal guardianship of a child, ~~or serious health condition of a member of either employee's immediate family (other than a child, spouse or domestic partner)~~, the FMLA leave available **for bonding** shall be the combined total of twelve (12) weeks of FMLA leave during any twelve (12) month period **as defined in the FMLA and its corresponding regulations**.

2. When the leave is because of the "serious health condition" of a parent, the FMLA leave available shall be the combined total of twelve (12) weeks during any twelve (12) month period as defined in the FMLA and its corresponding regulations.

3 2. When the leave is because of a serious health condition of either or both employees or a child, twelve (12) weeks of FMLA leave may be used by each employee in any twelve (12) month period.

12-25 11-155 Secondary employment during FMLA leave

Appointing authorities may deny secondary employment during FMLA leave.

12-26 11-156 Investigation of Use of FMLA leave

Appointing authorities may investigate the use of FMLA leave consistent with the FMLA **and its corresponding regulations**, including by ~~a~~ requiring a second opinion and third opinion, if appropriate, **and by considering information that is inconsistent with an employee's FMLA request**. Misuse of FMLA leave may be cause for disciplinary action up to and including dismissal. An appointing authority may not discipline an employee for appropriate use of FMLA leave.

12-27 11-157 Re-assignment

If an employee needs intermittent leave or leave on a **n established** reduced leave schedule that is foreseeable based on the planned medical treatment for the employee or **the employee's parent, spouse, domestic partner, or child** ~~an immediate family member~~, or if the appointing authority agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption, foster care or legal guardianship, the appointing authority may require the employee to transfer temporarily, during the period the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and **for which the modified schedule is less disruptive to the business and/or operational needs of the department or agency** ~~better accommodates recurring periods of leave than does the employee's regular **schedule** position.~~

~~11-158~~ **12-28** Maintenance of Benefits

- ~~B.~~ **A.** During any FMLA leave, the City must maintain the employee's **health insurance** coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously **working** ~~employed~~ during the entire leave period.
- ~~A.~~ **B.** It shall be the responsibility of an employee on unpaid FMLA leave to provide that share of payment(s) necessary to maintain health insurance coverage ~~as directed by the appointing authority~~.

~~11-159~~ **12-29** Return from FMLA Leave

- A. An employee returning from FMLA leave due to his or her own serious health condition shall provide a certification from the employee's health care provider that the employee is able to resume work. An employee further may be required to report periodically on the employee's status and intent to return to work.
- B. An employee returning from FMLA leave shall be returned to the same position the employee held when leave began or to an equivalent position which is defined by the FMLA regulations as a position that is virtually identical to the employee's former position in terms of pay, benefits and working conditions.
- C. An employee need not be re-instated if the employee would not otherwise have been employed at the time re-instatement is requested.
- ~~D. When an employee returning from FMLA leave is not qualified or able to perform the essential functions of the position to which the employee was returned, the employee shall be given a reasonable opportunity in which to become qualified or seek accommodation so long as such accommodation is required by and consistent with the Americans with Disabilities Act ("ADA").~~
- ~~D.~~ **E.** If the employee is unable to return to work at the conclusion of FMLA leave, the appointing authority shall initiate the interactive process as provided in **this** Rule ~~12-5 APPOINTMENTS AND STATUS~~, within twenty (20) days of the expiration of the employee's FMLA leave, unless the employee is also on disability **salary continuation** leave or Workers' Compensation leave (~~Revised June 11, 2012; Rule Revision Memo 63C~~).

~~11-160~~ Additional information regarding the FMLA

~~Appointing authorities shall post information and otherwise provide information regarding the FMLA as required by the FMLA. In addition, information may be found on the United States Department of Labor's website, www.dol.gov.~~

12-31 Definitions (for the purposes of this Section 12-30)

- A. Disability: The physical inability of an eligible employee to perform the duties of his or her position, or any other position with the City.**
- B. Eligible employee: Any Career Service employee except:**
- 1. Employees occupying on-call positions; and**
 - 2. Employees who hold positions in classifications in the Sheriff pay schedules (Deputy Sheriff, Deputy Sheriff Sergeant, Deputy Sheriff Captain, Deputy Sheriff Major, and Deputy Sheriff Division Chief).**

12-32 ~~11-41~~ Disability **Salary Continuation** Leave

- A. **1.** The City provides paid disability leave (**hereinafter "salary continuation leave"**) **at the rate of** ~~amounting to~~ eighty percent (80%) of an employee's gross salary for up to ninety (90) consecutive calendar days from the date of injury.
- 2.** **An eligible employee is entitled to salary continuation leave if the employee has a disability as a result of an** ~~for each~~ occupational injury or occupational disease arising out of and ~~with~~ within the course and scope of employment with the City (~~see Disability Leave Ordinance, attached as Appendix A~~).
- B. An employee ~~on disability leave~~ **receiving salary continuation leave** shall not be permitted to use other available paid leave ~~concurrently with the disability leave~~.
- C. Salary continuation leave will end on the employee's last day as a City employee or if the employee is no longer eligible for temporary benefits under the Workers' Compensation Act of Colorado, as amended, Title 8, Articles 40-47, C.R.S. ("the Act").**

12-33 ~~11-42~~ Workers' Compensation Leave

- A. An employee who remains unable to return to work **in his or her job without accomodation, or to modified duty** after **salary continuation leave has been exhausted** ~~the disability leave allowed by the Denver Revised Municipal Code expires,~~ and is receiving temporary disability benefits under the provisions of the Workers' Compensation Act of Colorado, as amended, Title 8, Articles 40-47, C.R.S. ("the Act"), will be permitted to use Workers' Compensation leave for absences from work resulting from the employee's occupational injury or occupational disease arising out of and ~~with~~ within the course and scope of employment with the City, until it is determined that the employee is no longer eligible to receive temporary disability benefits pursuant to the Act.
- B. Workers' Compensation leave is unpaid leave, except to the extent an employee elects to use available paid leave. **An employee may use any available paid leave** to make up the difference between eighty percent (80%) of the employee's gross salary and the temporary disability benefits **paid** ~~the employee receives~~ under the provisions of the Act.

12-34 ~~11-43~~ Applicability of Family Medical Leave Act **the FMLA**

- A. The department or agency shall designate an employee's disability **salary continuation** leave and/or Workers' Compensation leave as FMLA leave if the requirements of the applicable Career Service and Federal statutes and regulations are met.
- B. If an employee's disability **salary continuation** leave and/or Workers' Compensation leave is also designated as FMLA leave, the disability **salary continuation** leave and/or Workers' Compensation leave shall run concurrently with the FMLA leave.

12-35 ~~11-44~~ Maintenance of Benefits

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

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

12-36 ~~11-45~~ Termination of Disability Leave or Workers' Compensation Leave Eligibility

- A. Employees who are no longer eligible for temporary benefits under the Act are not eligible to continue receiving ~~disability leave or Workers' Compensation~~ leave.
- B. If the employee's permanent restrictions prohibit the employee from returning to work full-time and/or full-duty after having reached Maximum Medical Improvement ("**MMI**"), the ~~City~~ **City** appointing authority shall initiate the interactive process as provided in this Rule 12 ~~5-APPOINTMENTS AND STATUS~~, within twenty (20) days of the expiration of the employee's eligibility for ~~disability~~ **salary continuation** leave or Workers' Compensation leave, unless the employee is also on FMLA leave.
- C. Employees who are still receiving temporary benefits under the Act may lose their eligibility for Workers' Compensation leave before reaching MMI if it is determined that they will be unable to return to work in any capacity. Such determination shall be made by the ADA Coordinator, after consulting with representatives from the City Attorney's Office and the City's Workers' Compensation Unit. Once this determination is made, the City shall initiate the interactive process as provided in this Rule 12, within twenty (20) days of the expiration of the employee's eligibility for salary continuation leave or Workers' Compensation leave, unless the employee is also on FMLA leave.**

Section 12-40 ~~5-80~~ The ADA Interactive Process

12-41 ~~5-81~~ Policy

- A. It is the policy of the City to provide equal employment opportunity to qualified 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.
- 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.

12-42 ~~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.

12-43 ~~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**.

- 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
 - 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.
- 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.
- 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.
- 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 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.

- 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.
- 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.

12-44 ~~5-84~~ Re-assignment:

- A.
 - 1. If the ADA Coordinator determines 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.
 - 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.
 - 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.
- 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 ~~the~~ Rule 5 **APPOINTMENTS AND STATUS**) to that position and is able to perform the essential functions of that position with or without accommodations. This does not preclude an employee from applying for promotions within the Career Service;
 - 2. To job applicants who are not currently City employees.

- 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 agencies.
 - 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 agencies.
 - 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.

- 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.
 - 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.
 - 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.

- 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.

- 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.

- 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.
- 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.
 - 2. Re-assigned employees shall be provided any reasonable accommodation necessary for the employees to perform the essential functions of the new position.
- 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.
 - 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.

12-45-85 Re-assignment of Classified Service Employees

- A. A Classified Service employee (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.

12-46 ~~5-86~~ ADA Leave

- 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.

12-47 ~~5-87~~ Retaliation and Coercion

- 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).

12-48 ~~5-88~~ Confidentiality and Record Keeping

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.