

Career Service Rule Section 2-20 B. - Adoption, Amendment or Repeal of Career Service Rules. When the Board or the OHR Executive Director determines 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 the same bulletin boards as the local, state, and federal-mandated posters, as well as the Career Service Board's internet page, and made available to appointing authorities, employees, and the general public for comments and suggestions. A short summary of the proposed rule change and the reason(s) for the proposed change 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. 543

A Career Service Board Public Hearing has been scheduled regarding proposed revisions to Career Service Rule 13 **PAY FOR PERFORMANCE** and related rules.

The scheduled time for the public hearing is **THURSDAY, APRIL 20, 2017, at 9:00 A.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
Office of Human Resources
201 West Colfax, 4th Floor
Department 412
Denver, Colorado 80202

Peter.Garritt@denvergov.org

Comments regarding this notice should be submitted no later than **the close of business on MONDAY, APRIL 17, 2017.**

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 **the close of business on MONDAY, APRIL 17, 2017** 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.**

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RULE PROPOSAL 454B

TO: Appointing Authorities, Managers, and Employees
FROM: Karen Niparko, OHR Executive Director
DATE: February 28, 2017
SUBJECT: Proposed revision of Career Service rules

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

THURSDAY, April 20, 2017, at 9:00 A.M.
Webb Municipal Building Room 4.G.2

OHR is currently proposing revisions to Career Service Rule 13 **PAY FOR PERFORMANCE** and related rules. Please refer to the following table for additional information on the former rule description, the revised rule description and the intended impact of the revisions to Rule 13:

Rule 13 Pay for Performance			
CURRENT RULE	REVISED RULE	NEW RULE NUMBER	REVISION INTENTION & IMPACT
Refers to employee performance plans as Performance Enhancement Plans (PEPs) and Performance Enhancement Plan Reviews (PEPRs)	Removes references to “PEPs” and “PEPRs” and replaces with “goal setting” or “individual goals” and “performance reviews”	Throughout the new Rule 13	The changes in titles of these processes reflects a broader, general understanding of how performance is evaluated, and is consistent with the terminology in Workday.
Describes how interim PEPRs are administered when an employee changes supervisors, no matter the type of personnel action. Requires former supervisor to evaluate and rate the employee for the interim period, and the current supervisor to consider that rating when the final PEPR is issued at the end of an	Rather than requiring a former supervisor to issue an interim rating, the new rule requires the former supervisor to merely evaluate the employee’s performance against his or her goals. Retains the responsibility of next level manager to provide this interim evaluation when the former	13-24	

Rule 13 Pay for Performance			
CURRENT RULE	REVISED RULE	NEW RULE NUMBER	REVISION INTENTION & IMPACT
evaluation year. When former supervisor is not available to produce an interim PEPR, the next level manager has this responsibility.	<p>supervisor fails to do so.</p> <p>Employees will be provided electronic access to this evaluation.</p>		
<p>Changes rating labels and their definitions from:</p> <p>5. Outstanding: Consistently delivers outcomes not often achieved by others; always exceeds standards.</p> <p>4. Exceeds expectations: Consistently performs well above expected job requirements. Outcomes frequently surpass expectations.</p> <p>3. Successful: Consistently achieved performance standards.</p> <p>2. Below expectations:</p>	<p>The rating labels and definitions are proposed to change as follows:</p> <p>5. Exceptional: Consistently delivers outcomes rarely achieved by others. Always exceeds standards. This rating is a special commendation for the employee who offers truly outstanding overall performance.</p> <p>4. Exceeds Expectations: Consistently exceeds expected job requirements and frequently surpasses established goals. Delivers outcomes that are superior the majority of the time. This rating recognizes overall performance that consistently exceeds standards.</p> <p>3. Successful: Consistently achieves expected job requirements and established goals. Employee is a solid contributor to the success of the department and the City and County of Denver by completing expected outcomes.</p>	13-31	<p>Some supervisors are currently over-rating performance. The new definitions provide clearer direction on the meaning of the ratings, and ultimately, leads to more accurate ratings.</p> <p>It is expected that most employees should receive ratings of Successful or Exceeds Expectations. Accompanying job aids will be provided that give examples of how to use the new ratings.</p>

Rule 13 Pay for Performance			
CURRENT RULE	REVISED RULE	NEW RULE NUMBER	REVISION INTENTION & IMPACT
<p>Meets many, but not all job requirements. Outcomes are generally less than expected, with improvement required in one or more specific areas.</p> <p>1. Failing: Work does not meet expectations in most, if not all, areas.</p>	<p>2. Below expectations: Meets many, but not all established goals and job requirements. Outcomes are generally less than expected, with improvement required in one or more specific area affecting their performance or behavior.</p> <p>1. Unacceptable: Work does not meet job expectations in most, if not all, areas. This is considered a rating where significant improvements are immediately required in overall performance.</p>		<p>“Failing” is a very negative term in that it is sometimes taken personally. Changing the term to “Unacceptable” focuses on performance rather than the person.</p>

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

RULE 13
PAY FOR PERFORMANCE
(~~Revised January 1, 2017; Rule Revision Memo 22D~~)

Purpose statement:

The purpose of this rule is to explain the P~~erformance~~ **review program** ~~Enhancement Program (“PEP”)~~ and how the individual performance of eligible Career Service employees is evaluated, reported and rewarded with merit increases and merit payments.

Section 13-10 Definitions:

- A. Eligible Employee: All Career Service employees are eligible for merit increases and merit payments as provided in this Rule, except:
1. On-call employees;
 2. Employees holding positions in the Training pay schedule, which only has one pay rate;
 3. Employees who hold positions in classifications contained in the Undersheriff pay schedules; and
 4. Employees hired in the Career Service after September 30th of the previous year.
(~~Revised July 31, 2015; Rule Revision Memo 13D~~)
- B. Merit Increase: Periodic increase to an employee’s base rate of pay as determined by an employee’s performance rating and location in the applicable pay range.
- C. Merit Payment: Lump sum payment is a percentage of an employee’s current annual base salary. A merit payment will not increase an employee’s base rate of pay.
- D. Performance Improvement Plan (“PIP”): A document which may be used at any time during an employee’s evaluation period to supplement the employee’s **individual goals** ~~PEP Plan~~ that may include, but is not limited to, levels of performance that must be achieved to obtain a successful rating, current performance deficiencies, support that may be provided by the department or agency, actions the employee must take to address the performance deficiencies, and a timeline for completion of the actions.

Section 13-20 ~~Performance Enhancement Program~~ **Goal Setting and Performance Reviews**

13-21 Purpose

The purposes of the ~~PEP~~ is **goal setting and performance reviews are** to outline job expectations, establish performance outcomes and measures, encourage and support professional development, provide ongoing performance feedback, and evaluate performance in a timely manner.

13-22 ~~Written PEP Plan~~ **Goal Setting**

An eligible employee's supervisor shall work with the employee to identify the goals for the performance outcomes and measures against which the employee's performance is evaluated every year. This shall be done annually for current employees, as well as upon appointment to a new position, or the assignment of substantially different duties to an employee. These goals shall be provided to the employee in writing. ~~Upon appointment to a position, or the assignment of substantially different duties, an eligible employee's supervisor shall provide the employee with a written PEP plan setting forth the performance outcomes and measures against which an employee's performance is evaluated every year.~~

13-23 Performance Reviews

- A. All eligible employees shall have their performance for the previous calendar year formally evaluated and rated in a written performance review ~~PEP Report~~ ("PEPR"). This evaluation shall occur once every year according to the schedule attached as Appendix A.
1. Eligible employees who have been absent from their position for less than a calendar year shall have their performance evaluated based on the time they were present at work.
 2. Eligible employees who have been on a leave of absence from their position for all of the preceding calendar year shall have their pay adjusted to reflect what they would have received with a "Successful" merit increase set at the mid-point of the applicable range for the quartile containing the employee's pay rate.

~~13-24 Interim PEPRs~~

~~(Revised July 31, 2015; Rule Revision Memo 13D)~~

- B**A. Whenever an eligible employee changes supervisors, an interim PEPR should be completed by the employee's former supervisor **should evaluate the employee's performance in relation to the employee's goals. Each goal should be rated individually, and no overall rating is required.** If the change in supervisors is the result of the employee's former supervisor terminating employment with the City, the next level manager ~~should complete the interim PEPR~~ **is responsible for evaluating the employee's performance.** ~~The interim PEPR~~ **These ratings** shall cover the period from the beginning of the year until the effective date of the change in supervisors.

- ~~1. B.~~ The employee's current supervisor, ***as well as the employee,*** should make reasonable efforts to obtain an interim PEPR or a documented review of the employee's performance prior to the change in supervisors ***will receive the interim evaluation electronically.*** ~~However, if an employee's former supervisor or next level manager fails to complete an interim PEPR and submit it to the current supervisor or the employee's current supervisor is unable to obtain a documented performance review prior to the deadline by which the current supervisor must complete the employee's PEPR, the employee will receive a rating of "Successful" for the performance period under the former supervisor.~~
- ~~2 C.~~ ***At the end of the evaluation year,*** The ***the*** employee's current supervisor shall prepare a PEPR ***performance review*** for the entire calendar year. This performance rating should take into account the performance rating on the interim PEPR and/or the documented performance review ***information provided by the previous supervisor,*** and the employee's current performance in proportion to the time spent in each assignment. ~~However, nothing herein shall prevent an employee from receiving an overall annual rating higher or lower than the rating given on the interim PEPR and/or the documented performance review.~~

Section 13-30 Performance Review Process

13-31 Performance Ratings

- A. An eligible employee's overall performance shall be evaluated in an employee's review as one of the following:
- ~~1. Failing: Work does not meet expectations in most, if not all, areas.~~
 - ~~2. Below expectations: Meets many, but not all job requirements. Outcomes are generally less than expected, with improvement required in one or more specific areas.~~
 - ~~3. Successful: Consistently achieved performance standards.~~
 - ~~4. Exceeds expectations: Consistently performs well above expected job requirements. Outcomes frequently surpass expectations.~~
 - ~~5. Outstanding: Consistently delivers outcomes not often achieved by others; always exceeds standards.~~

<u>Rating</u>	<u>Rating Name</u>	<u>Definition</u>
<u>5</u>	<u>Exceptional</u>	<u>Consistently delivers outcomes rarely achieved by others. Always exceeds standards. This rating is a special commendation for the employee who offers truly outstanding overall performance.</u>
<u>4</u>	<u>Exceeds Expectations</u>	<u>Consistently exceeds expected job requirements and frequently surpasses established goals. Delivers outcomes that are superior the majority of the time. This rating recognizes overall performance that consistently exceeds standards.</u>
<u>3</u>	<u>Successful</u>	<u>Consistently achieves expected job requirements and established goals. Employee is a solid contributor to the success of the department and the City and County of Denver by completing expected outcomes.</u>
<u>2</u>	<u>Below Expectations</u>	<u>Meets many, but not all established goals and job requirements. Outcomes are generally less than expected, with improvement required in one or more specific area affecting their performance or behavior.</u>
<u>1</u>	<u>Unacceptable</u>	<u>Work does not meet job expectations in most, if not all, areas. This is considered a rating where significant improvements are immediately required in overall performance.</u>

B. ~~“Failing”~~ **“Unacceptable”** Rating Procedure:

1. If an eligible employee’s annual performance evaluation rating is expected to be **“Unacceptable”** ~~Failing~~,” the department or agency shall advise the employee of the expected rating a reasonable time in advance, but not less than seven (7) calendar days prior to the date of the meeting scheduled to ~~review~~ **discuss** the employee’s **performance review** PEPR, and shall allow representation at **this** ~~the meeting to review the PEPR~~ in accordance with the provisions of Rule 16 **CODE OF CONDUCT AND DISCIPLINE**. ~~(Revised February 12, 2016; Rule Revision Memo 18D)~~
2. The employee shall be provided with a PIP no later than ten (10) calendar days after the date **of the meeting regarding the employee’s “Unacceptable” rating** ~~PEPR is reviewed with the employee.~~

13-32 Merit Increases and Merit Payments
(~~Revised January 1, 2016; Rule Revision Memo 17D~~)

- A. The funding for merit increases and merit payments is provided in the annual appropriation ordinance. The pay increase associated with a particular performance rating shall be reviewed annually and adjusted as necessary to reflect prevailing practices in the community. The award of merit increases and merit payments is contingent upon this annual appropriation being approved by City Council and the Mayor. In case of a conflict between ordinance and these rules, the ordinance will prevail.

- B.
 - 1. Departments and agencies are responsible for determining the percentage increase associated with each employee rating within each quartile. The percent increase for all eligible employees shall average 3.3% for merit increases and merit payments delivered in 2017.

 - 2. When there is a change to an employee's pay rate on the same effective date as the merit increase, the merit increase will be applied before any other pay rate change(s).

- C. Merit Table:
 - 1. Eligibility for merit increases and merit payments is based on an eligible employee's overall annual performance rating as measured by a performance review ~~PEPR~~ and the quartile in which the employee's salary is found in accordance with the following table:

<u>Performance Rating Category</u>	<u>Merit Increases for Salaries in the 1st Quartile</u>	<u>Merit Increases for Salaries in the 2nd Quartile</u>	<u>Merit Increases for Salaries in the 3rd Quartile</u>	<u>Merit Increases for Salaries in the 4th Quartile</u>	<u>Salaries at or Above Pay Range Maximum</u>
5. Outstanding <i>(changing to Exceptional for 2018)</i>	3.7-4.5%	4.3-5.1%	3.7-4.5%	3.1-3.9%	2.5% - 3.3% Lump Sum Merit Payment
4: Exceeds Expectations	3.1-3.9%	3.7-4.5%	3.1-3.9%	2.5-3.3%	1.9% - 2.7% Lump Sum Merit Payment
3: Successful	2.5-3.3%	3.1-3.9%	2.5-3.3%	1.9-2.7%	0.0%
2: Below Expectations	0.0%	0.0%	0.0%	0.0%	0.0%
1: Failing <i>(Changing to Unacceptable for 2018)</i>	0.0%	0.0%	0.0%	0.0%	0.0%

2. No eligible employee shall receive a merit increase that exceeds the range maximum of the pay grade assigned to the employee's job classification. If the application of this sub-paragraph results in an employee receiving a merit increase that is less than the percentage increase awarded to the employee, the employee shall receive the difference between the merit increase awarded and the merit increase received in the form of an additional merit payment.

D. In the case of a declared fiscal emergency by the Mayor, and upon the request of the Mayor, there will be no merit increases or merit payments awarded for increments of at least one year. During the declared fiscal emergency appointing authorities, managers and supervisors shall complete **performance reviews** ~~PEPRs~~ for eligible employees, but no merit increases or merit payments will be awarded during this time.

13-33 Pro-ration for New Hires

Employees hired after January 1st and on or before September 30th will have their merit increase pro-rated to the employee's start date.

13-34 Effective Date of Merit Increase

A. Merit increases and merit payments will be calculated from an employee's annual base salary as of the Saturday before the first Sunday of the calendar year and be effective on the first Sunday of the calendar year for eligible employees who were employed in the Career Service on December 31st of the previous year.

- B. An employee's merit increase shall not be included as part of another pay change (such as a promotional increase), and must be applied as a separate merit increase.

13-35 Performance Review Schedule

Departments and agencies shall submit proposed merit increases and merit payments to the Office of Human Resources ("OHR") as provided in the schedule attached as Appendix A.

13-36 Review of **Performance** ~~PEPR~~ with Employee

Each employee's written performance review shall be reviewed with the employee as provided in the schedule attached as Appendix A.

13-37 Official Records

The annual performance review and any supporting documentation shall be made a permanent part of the employee's official personnel record.

13-38 Discipline

The written performance review and/or PIP(s) may be used as a basis for disciplinary action under Rule 16 **CODE OF CONDUCT AND DISCIPLINE**, up to and including dismissal, if an employee's performance fails to comport with the standards set forth in any of these documents. ~~(Revised February 12, 2016; Rule Revision Memo 18D)~~

13-39 Grievances and Appeals Relating to Performance Reviews

- A. An eligible employee may grieve any performance rating pursuant to Rule 18 **DISPUTE RESOLUTION**.
- B. An eligible employee may appeal a grievance of an **"Unacceptable Failing"** rating in accordance with Rule 19 **APPEALS**. Appeals of grievances of other ratings are not permitted.
- C. An eligible employee may not grieve or appeal any other aspect of the **performance review program** ~~PEPR~~.

APPENDIX 13.A

2016 PERFORMANCE REVIEW SCHEDULE

DUE DATE	TASK
December 16, 2016	Deadline for performance evaluations for the 2016 calendar year to be completed by supervisors and managers.
January 13, 2016	Deadline for appointing authorities to submit merit increase and merit payment recommendations to the OHR. All eligible employees must be accounted for in these recommendations. The percent increase for all eligible employees in a department or agency should average 3.3% for merit increases and merit payments delivered in 2017.
February 24, 2017	Merit increases and merit payments appear on employee paychecks.
March 10, 2017	Merit increases and merit payments are paid retroactively for the period from January 1 until March 10.

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

**RULE 1
DEFINITIONS**

Documented performance:

A verifiable assessment of an individual's work performance, including ~~PEPR~~ **performance reviews** ratings, disciplinary actions, and safety violations (~~Effective March 19, 2004; Rule Revision Memo 247B~~).

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.

D. Required training:

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 ~~review~~ **Enhancement** program and performance ~~reviews~~ **Enhancement Program Reports**;

APPENDIX 9.A.

**TELECOMMUTING GUIDELINES
(REFERRED TO IN RULE 9-80 F)**

- D. If an employee subsequently receives a performance rating of "**Unacceptable** ~~Failing~~" or "Below expectations", the employee's authorization to telecommute shall cease. (Revised January 1, 2010; Rule Revision Memo 43C)

16-27 Employee Organizations and Representation

- D. The representative of an employee, including officers and business agents of unions or other associations to which an employee belongs, shall be given the same rights to speak on behalf of the employee as would be given the employee at the following meetings:

- 3. Meetings to discuss a "**Unacceptable** ~~Failing~~" PEPR required under Rule 13 **PAY FOR PERFORMANCE**.

G. Designation of Representative

1. Employees shall identify, in writing, to the person who signed the contemplation of discipline letter and the agency human resources representative, agents to represent them in a contemplation of discipline meeting, a contemplation of disqualification meeting, a meeting to discuss a "**Unacceptable Failing**" rating, or in presenting a grievance or appeal.

16-29 Grounds for Discipline

The following may be cause for the discipline or dismissal of a Career Service employee:

- G.
1. Failing to meet established standards of performance including either qualitative or quantitative standards. When citing this subsection, a department or agency must describe the specific standard(s) the employee has failed to meet, such as standards in **the employee's individual goals** ~~a Performance Enhancement Program (PEP) Plan~~ or in a Performance Improvement Plan (PIP).
 2. Any employee who receives a "**Unacceptable Failing**" **performance** ~~PEP~~ rating and fails to correct his or her performance in the subsequent PIP (or PIPs), is considered to have been given an adequate opportunity to correct his or her behavior and may be dismissed without his or her appointing authority first being required to resort to progressive discipline.

Section 18-30 Grievance Procedure

A. Defined:

A grievance is an allegation made by a Career Service employee regarding discrimination, harassment, retaliation, or violence in the workplace, or relating to actions/inactions taken by the employee's supervisor/manager that violate the employee's rights under the Rules, the City Charter, ordinances relating to the Career Service, executive orders, or written agency policies. Notwithstanding the above definition, the following shall not be grieved:

2. Any aspect of the performance **review** ~~Enhancement~~ program other than an employee's performance rating;

Section 19-10 Actions Subject to Appeal

- A. An employee who holds career status may appeal the following:
2. Grievances: An employee may file an appeal following a formal grievance only as described below:
 - a. Only the following grievances can be appealed;
 - ii. A grievance of a **performance review** ~~Performance Enhancement Program Report (“PEPR”)~~ with an overall rating of “**Unacceptable** ~~Failing~~”. Grievances of any other rating may not be appealed. The only basis for reversal of ~~the~~ **an “Unacceptable” rating** ~~PEPR~~ shall be an express finding that the rating was arbitrary, capricious or without rational basis or foundation.

Section 19-20 Filing of Appeal

- B. Form of Appeal:
4. For any appeal filed pursuant to 19-10 A.2.c., the employee must identify why the employee asserts the “**Unacceptable** ~~Failing~~” **rating** ~~PEPR~~ was arbitrary, capricious and without rational basis or foundation. An appeal shall be dismissed if the employee fails to comply (~~Revised January 1, 2010; Rule Revision Memo 43C~~).