

Career Service Rule Section 2-20 B. - Adoption, Amendment or Repeal of Career Service Rules ("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. 572 **REVISED POSTING**

A Career Service Board Public Hearing has been scheduled regarding proposed revisions to Career Service Rule 9 PAY ADMINISTRATION and related rules.

The scheduled time for the public hearing is **THURSDAY, APRIL 5, 2018, at 4:30 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:

Lauren Locklear
Office of Human Resources
201 West Colfax, 4th Floor
Department 412
Denver, Colorado 80202
Lauren.Locklear@denvergov.org
(720) 913-5618

Comments regarding this notice should be submitted no later than **12:00 p.m. on MONDAY, APRIL 2, 2018.**

If anyone wishes to address the Board regarding this notice please contact George Branchaud at (720) 913-5650 or at george.branchaud@denvergov.org no later than **12:00 p.m. on MONDAY, APRIL 2, 2018** 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.**

Notice of Public Hearing scheduled for April 5, 2018

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RULE PROPOSAL 467B

TO: Appointing Authorities, Managers, and Employees
FROM: Karen Niparko, OHR Executive Director
DATE: April 2, 2018
SUBJECT: Proposed Revisions of Career Service Rule 9 PAY ADMINISTRATION and Related Rules (**REVISED**)

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

**THURSDAY, APRIL 5, 2018, at 4:30 P.M.
Webb Municipal Building Room 4.G.2**

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 9 and related rules:

Rule 9 PAY ADMINISTRATION and Related Rules			
CURRENT RULE	REVISED RULE	NEW RULE NUMBER	REVISION INTENTION & IMPACT
On-call employees may receive a pay adjustment if they've worked 300 hours in the current calendar year	On-call employees may receive a pay adjustment if they've worked 300 hours in the preceding year	9-40	
Non-exempt, on-call employees working for seasonal recreational establishments that do not operate for more than seven months in a calendar year are exempt from overtime pay. Non-exempt, on-call employees whose pay rates are set by the community rate schedule are paid overtime according to that schedule.	Non-exempt, on-call employees are paid overtime at a rate of one and one-half times the regular rate of pay for the position.	9-91	Reflect current practice
Requires Board approval for exceptions to overtime exclusion based on community practice.	Requires approval by the OHR Executive Director for exceptions to overtime based on community practice.	9-93 A.1	

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Rule 9 PAY ADMINISTRATION and Related Rules			
CURRENT RULE	REVISED RULE	NEW RULE NUMBER	REVISION INTENTION & IMPACT
	Rewords for greater clarity.	9-93 A.2	Stylistic and grammatical changes.
Describes overtime exceptions for employees providing services for the City during declared emergencies.	Describes overtime exceptions for employees providing services for the City during declared emergencies or when compelling operational needs exist.	9-93 A.3	
Describes overtime exceptions for employees in first-level supervisory classes based on community practice. Approval is given by the Career Service Board.	Gives approval authority to the OHR Executive Director.	9-93 A.4	
No existing rule.	OHR is responsible for approving overtime requests for FLSA exempt employees who are not first level supervisors for snow removal activities	9-93 A.5	
Describes the overtime rates for non-exempt and exempt employees, depending on the reason overtime was incurred.	Deleted and incorporated into Rules 9-92 and 9-93.	9-100	Facilitates ease of using and understanding the overtime rules.
	Moves portions of Rule 9-100 to Rule 10-71.	10-71	Facilitates ease of using and understanding the overtime rules.

ATTACHED BELOW YOU WILL FIND A STRIKETHROUGH VERSION OF THE PROPOSED REVISIONS TO RULE 9 PAY ADMINISTRATION AND RELATED RULES.

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

Section 9-40 **Pay Adjustment for** On-Call Employees
(Revised July 31, 2015; Rule Revision Memo 12D)

On-Call employees are not eligible for merit increases and merit payments. However, an appointing authority may grant on-call employees who have served a minimum of three hundred (300) hours in the **year preceding the date of the proposed increase** current calendar year a pay increase not to exceed the average percentage merit increase established by the annual appropriation ordinance and Rule 13 **PAY FOR PERFORMANCE** **for the year of the proposed increase.** The pay increase permitted under this rule shall not exceed the range maximum of the applicable range and shall not be granted more than once per **in a year period from the pay increase effective date.** in a calendar year.

Section 9-90 Overtime

9-91 Policy

A. In accordance with the FLSA, all work performed in excess of forty (40) hours per week by non-exempt employees shall be designated overtime work for the purposes of compensation, ~~subject to the following exceptions:~~ **Overtime compensation for non-exempt employees may be paid either in cash or in compensatory time off, at the discretion of the appointing authority. The appointing authority shall inform employees of the department's or agency's overtime compensation policy.**

~~1. On call employees working for seasonal recreational establishments that do not operate for more than seven months in any calendar year shall be exempt from overtime pay and shall be paid the straight time hourly rate for all hours worked in a work week, including all hours worked in excess of forty (40) hours per week.~~

~~2. On call employees whose rates of pay are set by the community rate schedule established by ordinance shall be paid overtime according to that schedule. If the community rate schedule makes no provisions for overtime, such employees shall be paid overtime in accordance with section 9-100.~~

1. Non-exempt employees who work overtime and are paid in cash shall receive compensation at the rate of one and one-half (1½) times the regular rate of pay applicable to the position. The regular rate of pay shall be computed as follows:

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a. Multiply the hourly rate by the employee's actual hours of work in the work week to determine the weekly salary equivalent.

b. Total the weekly salary equivalent plus all payments for differentials, standby, and any other compensation required by the FLSA to be included in the regular rate of pay for the work week, and divide by the number of hours the employee actually worked during that week.

2. Non-exempt employees who work overtime and are paid in compensatory time off shall accrue compensatory time at the rate of one and one-half (1½) times the overtime hours worked. An employee who has accumulated eighty (80) hours of compensatory time and is required to work overtime shall only be paid for such overtime in cash.

- B. If a paid holiday, a period of paid leave, or ~~discharge~~ **use** of compensatory time occurs during a work week, such time shall be counted as time worked when determining whether an employee has worked overtime. Time spent taking courses outside of the normal work day shall not be counted as time worked, even if the employee receives paid training leave to take the courses, unless the City has required the employee to take the course.
- C. Unpaid leave shall not count as time worked.
- D. The hours worked as an election judge by an employee shall not be counted as time worked for the purposes of determining overtime eligibility. If an employee wishes to work as an election judge during a regularly scheduled shift, the employee must request leave from the appointing authority.

9-92 Criteria for Authorizing Overtime Work

- A. Overtime work shall be authorized to provide essential City services when such services cannot otherwise be provided by regular or special work schedules. Except in cases of emergency, overtime work shall be authorized and assigned in advance by an employee's supervisor or other designated individual. Working unauthorized overtime may be grounds for discipline, up to and including dismissal.
- B. When an employee has been assigned work outside of his or her normal work schedule, such overtime shall be subject to the same reporting requirements as regular work hours. Failure to report for such work may be cause for disciplinary action, up to and including dismissal.

9-93 Overtime Exceptions

- A.** Employees in overtime exempt classes as defined by the FLSA shall not receive overtime pay, except in the following situations:

~~1.A.~~ Based on community practice, the OHR Executive Director may recommend **grant** an exception to the overtime exclusion for a designated classification or classifications to the Board for approval. **The overtime rate shall be one and one-half (1½) times the hourly rate of pay applicable to that position.**

~~2.B.~~ Career Service employees who **are employed by the City and County of Denver and** work for the DHHA in exempt classifications in the Health ~~care~~ Technical and Related Support, Health Professional, and Doctors occupational group **shall receive the same exceptions to overtime exclusion as** comparable classifications in the ~~at~~ DHHA, personnel system **not in the Career Service.** ~~have been granted an exception to the overtime exclusion by the DHHA.~~

~~3.C.~~ Upon the request of an appointing authority, the OHR Executive Director may grant an exception to **the** overtime exclusion for a specified period of time when the employee **or employees** will provide services for the City during declared emergencies **or when compelling operational needs exist.** **The overtime rate shall be the straight time hourly rate of pay applicable to that position.**

~~4.D.~~ Based on community practice, overtime shall be paid only under the circumstances outlined below to incumbents in the FLSA overtime exempt, first level supervisory classes approved by the **OHR Executive Director** ~~Board~~:

~~a1.~~ Scheduled overtime occurring in a holiday week;

~~b2.~~ Overtime related to after-hour emergency response duties; **and**

~~c3.~~ Publicly scheduled events requiring infrastructure support; ~~and~~

~~d4.~~ Snow removal activities.

The overtime rate shall be one and one-half (1½) times the hourly rate of pay applicable to that position.

5. Upon the request of an appointing authority, the Office of Human Resources may grant an exception to the overtime exclusion for employees when the employee will provide snow removal and snow operations duties for the City. The overtime rate shall be the straight time hourly rate of pay applicable to that position.

B. The hourly rate of pay for purposes of overtime compensation under this Rule 9-93 shall be computed by dividing the employee's annual salary by 52 and then dividing by the regular weekly hours of the position.

C. Overtime compensation for eligible exempt employees shall be paid in cash. Exempt employees eligible for overtime pay shall not accrue or use compensatory time in lieu of pay, except for Holiday Compensatory Time as defined in Rule 10 PAID LEAVE.

Section 9-100 Payment for Overtime

~~A. Non-exempt employees: Non-exempt employees who work overtime shall receive compensation at the rate of one and one-half (1 1/2) times the regular rate of pay applicable to the position.~~

~~1. The regular rate of pay shall be computed as follows:~~

~~a. Multiply the hourly rate by the employee's actual hours of work in the work week to determine the weekly salary equivalent.~~

~~b. Total the weekly salary equivalent plus all payments for differentials, standby, and any other compensation required by FLSA to be included in the regular rate of pay for the work week, and divide by the number of hours the employee actually worked during that week.~~

~~2. Compensatory time:~~

~~a. Overtime compensation may be paid either in cash or in compensatory time off, at the discretion of the appointing authority. The appointing authority shall inform employees of the department's or agency's overtime compensation policy. Compensatory time off shall be accrued at the rate of one and one-half (1 1/2) times the overtime hours worked. An employee who has accumulated eighty (80) hours of compensatory time and is required to work overtime shall only be paid for such overtime in cash. All accrued compensatory time shall be used by March 31st or paid out in cash by the final pay period of April of that year.~~

~~b. Payment for accrued compensatory time on separation: An eligible non-exempt employee who has accrued compensatory time in accordance with this section shall receive payment for the unused portion of such accrual when the employee is separated from the Career Service. The rate of compensation for such payment shall be the larger of the following:~~

~~1. The average regular rate received by such employee during the last three years of the employee's employment; or~~

~~2. The final regular rate received by such employee.~~

~~B. Exempt employees eligible to receive overtime: The overtime rate shall be:~~

~~1. a. At the rate established for non-exempt employees by this rule if eligible under paragraph 9-93-A.~~

~~b. At the rate established by the DHHA for comparable positions if eligible under paragraph 9-93-B.~~

~~c. At the straight time hourly rate of pay applicable to that position, if eligible under paragraph 9-93-C, where the hourly rate is computed by dividing~~

~~the annual salary by 52 and then dividing by the regular hours of the position; and~~

~~d. At the rate of one and one half (1 ½) times the hourly rate of pay applicable to that position if eligible under paragraph 9-93-D, where the hourly rate is computed by dividing the annual salary by 52 and then dividing by the regular hours of the position.~~

~~2. How paid: Overtime compensation for eligible exempt employees shall be paid in cash. Exempt employees eligible for overtime shall not accrue or use compensatory time in lieu of pay, except for Holiday Compensatory Time as defined in Rule 10 **PAID LEAVE**.~~

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. **An eligible non-exempt employee who has accrued compensatory time in accordance with Section 9-90 shall receive payment for the unused portion of such accrual at the final regular rate of compensation received by such employee when the employee is separated from the Career Service.**