

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. 625

A Career Service Board Public Hearing has been scheduled regarding the proposed revisions to **Career Service Rule 11-27 Budget Required Furlough**. Prior revisions were made as an Emergency Rule Revision on May 26, 2020.

A Career Service Board Meeting regarding Public Hearing Notice 625 is scheduled for **Thursday, September 17, 2020**. The public hearing starts at **9:00 AM** and will be conducted through a provided conference call number and available digital link through public notice of the agenda, released no later than two days prior to the scheduled meeting.

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

Office of Human Resources
Employee Relations Team
(720) 913-5710
ERSTeam@denvergov.org

Comments regarding this notice should be submitted no later than **12:00 P.M. on Monday, September 14, 2020**.

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 Wednesday, September 13, 2020** 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 625

TO: Appointing Authorities, Managers, and Employees
FROM: Karen Niparko, OHR Executive Director
DATE: September 3, 2020
SUBJECT: Proposed revisions to Career Service Rule 11-27 **Budget Required Furlough**

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

Thursday, September 17, 2020, at 9:00 A.M.

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
<p>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.</p>	<p>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. Exempt employees become non-exempt employees during any week that a furlough day is taken. Furlough hours are not considered hours worked for purposes of calculating overtime.</p>	<p>11-27A</p>	<p>The addition to this rule is intended to make it clear that furlough hours are not counted as “hours worked” for purposes of overtime, consistent with both the FLSA and the CSRs governing overtime. Previously, this rule (which last applied in 2008) had been incorrectly interpreted to require paying overtime to employees if their furlough hours taken pushed them over the 40-hour threshold.</p>

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
<p>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.</p>	<p>B. Furlough days are based on an eight-hour workday. In order to ensure the cost savings that furloughs are intended to achieve, during the workweek in which an employee takes one or more furlough days, the furlough hours taken and hours actually worked plus any paid leave taken (including holidays and comp time used) should not total more than forty (40) hours. An employee who exceeds this 40-hour limitation will not get full credit for the furlough hours taken in that week. Instead, those furlough hours will be reduced in proportion to the overage and have to be made up on another date, preferably within the same payroll period.</p>	<p>11-27B</p>	<p>This revision is meant to make the rule consistent with the FLSA. Exempt employees are not required to take furloughs in work-day or work-week increments under the FLSA regulation 29 C.F.R. § 541.710, or any other regulation. Moreover, because exempt employees are considered non-exempt in a furlough week, there's no reason to have different rules based on exemption status.</p> <p>Additionally, the revision clarifies what type of leave counts towards the 40-hour limit, and specifies that, if that occurs, the employee's furlough hours taken will be reduced proportionately. This is necessary to ensure that the City achieves the cost savings that furloughs are intended to achieve.</p>
<p>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. The Department of Finance will determine whether furloughs declared by the Mayor may be taken in less than eight (8) hour increments, with the exception of scheduled furlough days. When the Mayor has allowed an appointing authority to furlough employees, the appointing authority may determine how such furloughs will be implemented.</p>	<p>C. Scheduled furlough days declared by the Mayor will be taken in eight (8) hour increments, unless an employee receives supervisory approval to work part of the day and make up the remaining hours at a later time, preferably within the same payroll period. The Department of Finance will determine how furloughs declared by the Mayor, other than scheduled furlough days, will be implemented, including whether they may be taken in less than eight (8) hour increments. When the Mayor has allowed an appointing authority to furlough employees, the appointing authority may determine how such furloughs will be implemented.</p>	<p>11-27C</p>	<p>This revision is likewise intended to change the unnecessary distinction between exempt and non-exempt employees with respect to how their furlough days must be taken. The revision also now reflects which entity within the City determines how furloughs are implemented, including whether they may be taken in increments of less than a full workday, depending on whether the furlough was declared by the Mayor or whether the Mayor has allowed an appointing authority to impose furloughs independently. Previously, some employees and managers interpreted this rule as requiring that non-exempt employees be allowed to take furloughs in increments of less than 8 hours.</p>

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
D. The Mayor may exempt certain employees from a mandatory furlough in order to maintain essential City services or for other necessary business reasons.	D. The Mayor may exempt certain employees and/or classifications from mandatory furloughs in order to maintain essential City services or for other necessary business reasons.	11-27D	This change simply adds that classifications in addition to employees may be exempted from furloughs in order to maintain essential City services.
n/a	F. If the Mayor decides to impose, or allows an appointing authority to impose, an extended furlough of 30 consecutive days or more, the number of consecutive furlough days taken shall not count towards the probationary period of employees on employment probation when placed on the extended furlough. Such employees will resume their probationary period upon returning from the extended furlough. This suspension of the probationary period during an extended furlough shall not be considered an extension of employment probation under Rule 5-34.E.	11-27F	This addition is intended to protect the probationary employment period for its intended purpose (as stated in CSR 5-34A) to closely observe the employee's work and assist the employee to adjust to the duties and responsibilities of the position. Employees on furlough cannot be observed as required by CSR 5-34.

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
n/a	G. If an employee on extended furlough of 30 consecutive days or more obtains other employment, the employee must promptly submit to their supervisor and/or OHR either a request for approval of outside employment in accordance with the Denver Code of Ethics or a notice of resignation effective no later than one day prior to the first day of their new employment.	11-27G	This addition is to ensure that if employees on furlough obtain secondary employment, that employment can be evaluated for potential conflicts. It is also to ensure that if employees on furlough obtain new permanent employment, they put the City on notice.
<p>F. Maintenance of benefits</p> <p>a. Have the City continue paying its share of the employee’s health, dental, and life insurance premiums.</p> <p>b. Earn PTO, or sick and vacation leave, and</p> <p>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.</p>	<p>H. Maintenance of benefits:</p> <p>1. During furloughs of three (3) consecutive months or less:</p> <p>a. employees will continue to earn PTO, or sick and vacation leave, and</p> <p>b. receive paid holiday leave for observed holidays, even if the workday immediately preceding and/or immediately following the holiday is a scheduled furlough day, and</p> <p>c. the City will continue paying its share of the employee’s health, dental, and life insurance premiums.</p>	11-27H.1.	<p>This revision limits City provided benefits while on furlough to three months.</p> <p>This rule had not been utilized since 2008-09. The framework worked then and worked well for administering the eight furlough days imposed by the Mayor which resulted in the emergency changes made in May 2020. However, that framework does not work for the potential need for extended continuous furloughs that some agencies may utilize, and which present some unique challenges. From budgetary and operational perspectives, the City could not obtain the cost savings that furloughs are intended to achieve by providing benefits to employees on furloughs greater than three months in length.</p> <p>b. The revision removes the language that, after 30 days, furlough days are not treated as days worked for purposes of determining whether the employee worked on the workdays immediately preceding and following a holiday. This revision ensures that if employees take a furlough day on a workday immediately preceding and/or following a holiday they will still be paid for the holiday.</p>

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
n/a	H.2. For furloughs exceeding one (1) month, the employee must arrange for payment of the employee's portion of the employee's health, dental, and life insurance premiums as well as supplemental insurance coverages such as vision and supplemental life insurance by executing a deduction agreement allowing the City to make monthly deductions from the employee's accrued paid leave (PTO or vacation leave) and holiday leave accruals equal to the amount of employee owed premiums.	11-27H.2.	This addition clarifies how employees will pay the employee portion of benefits while an employee is on a furlough exceeding one month.
n/a	H.3. If an employee resigns employment or is laid off from the City during or after an extended furlough of 30 consecutive days or more, the City will deduct any unpaid employee benefit premiums from the employee's accrued paid leave and holiday leave accrual prior to the payout of those amounts as addressed in CSA Rules 10-26 and 10-36.	11-27H.3.	This addition advises employees how their portion of benefits will be paid if they resign or are laid off during an extended furlough.
n/a	H.4. After three (3) consecutive months of extended furlough, the employee may apply for benefits through COBRA.	11-27H.4.	This addition advises employees that if a furlough extends beyond three months, employees are entitled to benefits continuation through COBRA.

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

11-27 **Budget Required Furlough**

~~If~~The **following rules apply when the** Mayor of the City and County of Denver decides **to furlough city employees,** or **to** allows appointing authorities to furlough employees **of their agencies,** 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. **Exempt employees become non-exempt employees during any week that a furlough day is taken. Furlough hours are not considered hours worked for purposes of calculating overtime.**
- B. Furloughs of overtime exempt employees may be taken in workday or workweek increments. **Furlough days are based on an eight-hour workday. In order to ensure the cost savings that furloughs are intended to achieve,** ~~During~~ during the workweek in which an overtime exempt employee takes one or more furlough days, the furlough hours taken and the hours **actually** worked plus any **paid** leave taken **(including holidays and comp time used)** by the exempt employee should not total more than forty (40) hours. A **workday** is eight (8) hours for the purposes of this rule. **An employee who exceeds this 40-hour limitation will not get full credit for the furlough hours taken in that week. Instead, those furlough hours will be reduced in proportion to the overage and have to be made up on another date, preferably within the same payroll period.**
- 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. **Scheduled furlough days declared by the Mayor will be taken in eight (8) hour increments, unless an employee receives supervisory approval to work part of the day and make up the remaining hours at a later time, preferably within the same payroll period. The Department of Finance will determine how furloughs declared by the Mayor, other than scheduled furlough days, will be implemented, including whether they may be taken in less than eight (8) hour increments. When the Mayor has allowed an appointing authority to furlough employees, the appointing authority may determine how such furloughs will be implemented.** ~~including whether they may be taken in less than eight (8) hour increments.~~
- D. The Mayor may exempt certain employees **and/or classifications** from a mandatory furlough~~s~~ 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. If the Mayor decides to impose, or allows an appointing authority to impose, an extended furlough of 30 consecutive days or more, the number of consecutive furlough days taken shall not count towards the probationary period of employees on employment probation when placed on the extended furlough. Such employees will resume their probationary period upon returning from the extended furlough. This suspension of the probationary period during an extended furlough shall not be considered an extension of employment probation under Rule 5-34.E.

G. If an employee on extended furlough of 30 consecutive days or more obtains other employment, the employee must promptly submit to their supervisor and/or OHR either a request for approval of outside employment in accordance with the Denver Code of Ethics or a notice of resignation effective no later than one day prior to the first day of their new employment.

H. Maintenance of benefits:

1. An employee on a furlough is entitled to: During furloughs of three (3) consecutive months or less:

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

a. employees will continue to Earn PTO, or sick and vacation leave, and

b. Receive paid holiday leave for observed holidays ~~observed during a furlough,~~ even if the workday immediately preceding and/or immediately following the holiday is a scheduled furlough day, and 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,

c. The City will continue paying its share of the employee's health, dental, and life insurance premiums.

2. For furloughs exceeding one (1) month, the employee must arrange for payment of the employee's portion of the employee's health, dental, and life insurance premiums as well as supplemental insurance coverages such as vision and supplemental life insurance by executing a deduction agreement allowing the City to make monthly deductions from the employee's accrued paid leave (PTO or vacation leave) and holiday leave accruals equal to the amount of employee owed premiums.

3. If an employee resigns employment or is laid off from the City during or after an extended furlough of 30 consecutive days or more, the City will deduct any unpaid employee benefit premiums from the employee's accrued paid leave and holiday leave accrual prior to the payout of those amounts as addressed in CSA Rules 10-26 and 10-36.

4. After three (3) consecutive months of extended furlough, the employee may apply for benefits through COBRA.

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

11-27 Budget Required Furlough

The following rules apply when the Mayor of the City and County of Denver decides to furlough city employees, or to allow appointing authorities to furlough employees of their agencies, due to budgetary reasons.

- 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. Exempt employees become non-exempt employees during any week that a furlough day is taken. Furlough hours are not considered hours worked for purposes of calculating overtime.
- B. Furlough days are based on an eight-hour workday. In order to ensure the cost savings that furloughs are intended to achieve, during the workweek in which an employee takes one or more furlough days, the furlough hours taken and hours actually worked plus any paid leave taken (including holidays and comp time used) should not total more than forty (40) hours. An employee who exceeds this 40-hour limitation will not get full credit for the furlough hours taken in that week. Instead, those furlough hours will be reduced in proportion to the overage and have to be made up on another date, preferably within the same payroll period.
- C. Scheduled furlough days declared by the Mayor will be taken in eight (8) hour increments, unless an employee receives supervisory approval to work part of the day and make up the remaining hours at a later time, preferably within the same payroll period. The Department of Finance will determine how furloughs declared by the Mayor, other than scheduled furlough days, will be implemented, including whether they may be taken in less than eight (8) hour increments. When the Mayor has allowed an appointing authority to furlough employees, the appointing authority may determine how such furloughs will be implemented.
- D. The Mayor may exempt certain employees and/or classifications from mandatory furloughs 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. If the Mayor decides to impose, or allows an appointing authority to impose, an extended furlough of 30 consecutive days or more, the number of consecutive furlough days taken shall not count towards the probationary period of employees on employment probation when placed on the extended furlough. Such employees will resume their probationary period upon returning from the extended furlough. This suspension of the probationary

period during an extended furlough shall not be considered an extension of employment probation under Rule 5-34.E.

G. If an employee on extended furlough of 30 consecutive days or more obtains other employment, the employee must promptly submit to their supervisor and/or OHR either a request for approval of outside employment in accordance with the Denver Code of Ethics or a notice of resignation effective no later than one day prior to the first day of their new employment.

H. **Maintenance of benefits:**

1. During furloughs of three (3) consecutive months or less:

- a. employees will continue to earn PTO, or sick and vacation leave, and
- b. receive paid holiday leave for observed holidays, even if the workday immediately preceding and/or immediately following the holiday is a scheduled furlough day, and
- c. the City will continue paying its share of the employee's health, dental, and life insurance premiums.

2. For furloughs exceeding one (1) month, the employee must arrange for payment of the employee's portion of the employee's health, dental, and life insurance premiums as well as supplemental insurance coverages such as vision and supplemental life insurance by executing a deduction agreement allowing the City to make monthly deductions from the employee's accrued paid leave (PTO or vacation leave) and holiday leave accruals equal to the amount of employee owed premiums.

3. If an employee resigns employment or is laid off from the City during or after an extended furlough of 30 consecutive days or more, the City will deduct any unpaid employee benefit premiums from the employee's accrued paid leave and holiday leave accrual prior to the payout of those amounts as addressed in CSA Rules 10-26 and 10-36.

4. After three (3) consecutive months of extended furlough, the employee may apply for benefits through COBRA.

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