

## MEMORANDUM

### **RULE REVISION 85D**

**TO:** Holders of Career Service Rule Books

**FROM:** Career Service Board

**DATE:** February 24, 2023

**SUBJECT:** Revision of the following Career Service Rules:

- Career Service Rule 9-69 – Communications Training Officer Stipend
- Career Service Rule 9-101 – Retention Bonus
- Career Service Rule 13-23 – Performance Reviews
- Career Service Rule 13-31 – Performance Ratings
- Career Service Rule 13-39 – Grievance and Appeals Relating to Performance Reviews
- Career Service Rule 16-26 – Employee Organizations & Representation
- Career Service Rule 16-28 – Grounds for Discipline
- Career Service Rule 19-20 – Actions Subject to Appeal

The above-mentioned Career Service Rules were revised and approved on February 21, 2023.

Please replace the following pages in your books for revisions and re-pagination. Thank you.

<u>Page Numbers to Remove</u>	<u>Page Numbers to Insert</u>
Page 9-24 CSR 9-69	Page 9-24 CSR 9-69 A.4 ( <b>revised</b> ) Page issuance date: February 24, 2023
Page 9-33 CSR 9-101 D.6.b	Page 9-33 CSR 9-101 D.6.b ( <b>revised</b> ) Page issuance date: February 24, 2023
Page 13-2 CSR 13-23 A.2	Page 13-2 CSR 13-23.A.2 ( <b>revised</b> ) Page issuance date: February 24, 2023
Page 13-3 CSR 13-31 A & B	Page 13-3 CSR 13-31 A ( <b>revised</b> ) CSR 13-31 B ( <b>removed</b> ) Page issuance date: February 24, 2023
Page 13-6 CSR 13-39 B	Page 13-6 CSR 13-39 B ( <b>revised</b> ) Page issuance date: February 24, 2023
Page 16-9 & 16-10 CSR 16-26 D.1, .3 & G.1	Page 16-9 & 16-10 CSR 16-26 D.1 ( <b>revised</b> ) CSR 16-26 D.3 ( <b>removed</b> )

<p>Page 16-11 CSR 16-28 G.2</p> <p>Page 19-1, 19-2, &amp; 19-3 CSR 19-20. A, B.1.b &amp; B.4.a</p>	<p>CSR 16-26 G.1 <b>(revised)</b> Page issuance date: February 24, 2023</p> <p>Page 16-11 CSR 16-28 G.2 <b>(removed)</b> Page issuance date: February 24, 2023</p> <p>Page 19-1 CSR 19-20.A <b>(revised)</b> CSR 19-20.B.1.b <b>(removed)</b> CSR 19-20.B.4.a <b>(revised)</b> Page issuance date: February 24, 2023</p>
--	--

# Certifications	Fleet Technician I	Fleet Technician II	Fleet Technician III/ Fleet Collision Technician	Fleet Technician Lead
Successful Completion of four (4) Certifications	\$30	\$30	\$30	\$45
Successful Completion of eight (8) Certifications	N/A	\$50	\$50	\$90
Successful Completion of twelve (12) Certifications	N/A	N/A	\$75	\$135
Successful Completion of fifteen (15) Certifications	N/A	N/A	\$100	\$180

- E When an employee changes positions and the skills are not a requirement of the new position, the fleet technician certification stipend shall cease.
- F The appointing authority retains the right to revoke eligibility for the stipend for any business-related reason, at any time.

969 911 Communications Training Officer Stipend  
(Revised February 24, 2023; Rule Revision Memo 84D; Rule Revision Memo 85D)

- A The appointing authority may pay a monthly stipend to employees who are enrolled in the 911 Communications Training Officer (CTO) program if the following eligibility conditions are met:
1. The employee is in a full-time, unlimited position.
  2. The employee is a member of the 911 Emergency Communication Technician, 911 Dispatch Support Specialist, or 911 Police Dispatcher classifications.
  3. The employee has successfully completed the 911 CTO certification course.
  4. The employee was rated “Thriving” or higher in the employee’s most recent performance evaluation and continues to receive performance evaluations of “Thriving” or higher while receiving the CTO stipend.
  5. The employee has not been on a Performance Improvement Plan in the preceding year nor is the employee currently on a Performance Improvement Plan; and
  6. The employee is available to train new hires as requested for the duration of their CTO assignment. All trainings must be tracked through the tracking system specified by management.

### 13-22 Written 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.

### 13-23 Performance Reviews

(Revised February 24, 2023; Rule Revision Memo 85D)

- A. All eligible employees shall have their performance for the previous calendar year formally evaluated and rated in a written performance review. 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 not receive a performance evaluation. These employees shall have their pay adjusted to reflect the merit increase they would have received with a "Thriving" performance rating, based upon the approved merit increase percentage pool for the applicable merit cycle. (Revised May 22, 2018; Rule Revision Memo 42D)
- B. Whenever an eligible employee changes supervisors, 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 is responsible for evaluating the employee's performance. These ratings shall cover the period from the beginning of the year until the effective date of the change in supervisors.
  - 1. The employee's current supervisor, as well as the employee, will receive the interim evaluation electronically.
  - 2. At the end of the evaluation year, the employee's current supervisor shall prepare a performance review for the entire calendar year. This performance rating should consider the information provided by the previous supervisor, and the employee's current performance in proportion to the time spent in each assignment.

Section 13-30 Performance Review Process

13-31 Performance Ratings

(Revised February 24, 2023; Rule Revision Memo 85D)

- A. An eligible employee's performance shall be evaluated in an employee's review as one of the following:

<b>Rating</b>	<b>Rating Name</b>	<b>Definition</b>
3	Excellent	Significantly exceeds performance standards and goals on continuous basis. Frequently delivers outcomes that are superior. This rating reflects a level of performance that is truly superb throughout the rating period.
2	Thriving	Effectively achieves performance standards and on a consistent basis. Regularly delivers outcomes that are good or better than expected. This rating reflects a level of performance that are good or better than expected. This rating reflects a level of performance that is solid or in some respect even stronger than expected.
1	Development Needed	Falls short of performance standards and goals on a consistent basis. Delivers outcomes that are less than expected in terms of quality and/or consistency. This rating reflects a level of performance that needs improvement. It may also reflect that the employee has not spent enough time in the position to develop the knowledge or proficiencies needed to meet established standards.

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.

13-39 Grievances and Appeals Relating to Performance Reviews

(Revised on February 24, 2023; Rule Revision Memo 85D)

- A. An eligible employee may grieve any performance rating pursuant to Rule 18 **DISPUTE RESOLUTION**.
- B. Grievances of performance ratings may not be appealed.
- C. An eligible employee may not grieve or appeal any other aspect of the performance review program.

16-24 Use of City Facilities

(Re-numbered June 22, 2018; Rule Revision Memo 43D)

Employees may not solicit or distribute any non-job-related material of any kind during working time on City property except for designated City programs.

16-25 Political Activities

(Re-numbered June 22, 2018; Rule Revision Memo 43D)

- A. Employees are prohibited from engaging in political activities during working hours. Employees also are prohibited from using City facilities and/or resources in connection with campaigns or other political activities.
- B. City facilities and/or resources may not be used to solicit:
  - 1. Monetary political contributions; or
  - 2. Any other contribution of services or resources for political purposes from any officer or employee.
- C. Employees shall not engage in the following activities at any time:
  - 1. Taking any action or making any promise or threat of action to any employee because of the employee's giving or the withholding of a political contribution or service; or
  - 2. Engaging in solicitation or politically motivated behavior that is harassing or discriminatory.

16-26 Employee Organizations and Representation

(Revised February 24, 2023; Rule Revision Memo 85D)

- A. Career Service employees shall have the right to join or refrain from joining any organization of employees. No employee or applicant may be discriminated against, harassed or retaliated against because such person belongs, or does not belong, to a union or other employee organization.
- B. Employees shall not:
  - 1. Coerce or attempt to coerce any other employee to join or refrain from joining a union or other employee organization; or
  - 2. Accept or offer gratuities, prizes, or other valuable items for influencing any employee to join or refrain from joining, or to vote for or against, a union or employee organization.
- C. Employees in supervisory or management positions shall not make any effort to obtain members or votes for a union or any employee association.

- 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:
1. Contemplation of discipline meetings required under this Rule 16; and
  2. Contemplation of disqualification meetings required under Rule 14  
**SEPARATION OTHER THAN DISMISSAL.**

This right to representation does not extend to meetings related to the normal business activities of the department or agency, such as staff meetings.

- E. The complainant and the accused may each have a representative present while being interviewed during an investigation conducted pursuant to Rule 18 **DISPUTE RESOLUTION**. However, the representative may not answer interview questions on behalf of the interviewee unless requested to do so by the interviewer.

F. Counseling Employees During Working Hours

A representative of an employee organization may visit an employee during working hours if the representative obtains the permission of the employee's immediate supervisor and such visitation does not interfere with the work of the agency.

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, or in presenting a grievance or appeal.
2. No employee may be compelled to act as the representative of another employee.
3. If the representative is also a City employee, he or she shall be allowed, with the prior approval of his or her supervisor, to take up to a maximum of four (4) hours of approved administrative leave per pay period and use any accrued paid time off, vacation leave or compensatory time, or to take leave without pay to represent employees. Any such leave shall not adversely impact the agency or department and must be approved in advance.



16-27 Recording Devices in the Workplace  
(Re-numbered June 22, 2018; Rule Revision Memo 43D)

Employees shall not record audio or video during work hours, when on City premises, when speaking to a City employee by phone, or when on City business without the prior permission of the employee's appointing authority.

16-28 Grounds for Discipline  
(Revised February 24, 2023; Rule Revision Memo 85D)

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

- A. Neglect of duty or carelessness in performance of duties and responsibilities.
- B. Theft, destruction, or neglect in the use of City property; or property or materials of any other person or entity.
- C. Unauthorized operation or use of any vehicles, machines, or equipment of the City, or of any entity having a contract with the City, including, but not limited to, the unauthorized use of the internet, e-mail, or telephones.
- D. Any act of dishonesty, which may include, but is not limited to, lying, or improperly altering or falsifying records, examination answers, or work hours.
- E. Accepting, soliciting, or making a bribe, or using official position or authority for personal profit or advantage, including kickbacks.
- F. Failing to comply with the lawful orders of an authorized supervisor or failing to do assigned work which the employee is capable of performing.
- G. 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 or in a Performance Improvement Plan (PIP). (Revised February 24, 2023; Rule Revision Memo 85D)
- H. Intimidation or retaliation against an individual who has been identified as a witness, party, or representative of any party to any hearing or investigation relating to any disciplinary procedure, or any violation of a city, state, or federal rule, regulation or law, or against an employee who has used the dispute resolution process in good faith.

**RULE 19**  
**APPEALS TO THE CAREER SERVICE HEARING OFFICE**  
(Effective January 10, 2018; Rule Revision Memo 33D)

Purpose Statement:

The purpose of this rule is to provide a fair, efficient, and speedy administrative review of actions of appointing authorities or an appointing authority's designee by the Career Service Hearing Office, except for disciplinary appeals filed by deputy sheriffs which are governed by Rule 20 **DISCIPLINARY APPEALS TO THE CAREER SERVICE HEARING OFFICE FILED BY DEPUTY SHERIFFS**.

Section 19-5 Hearing Office Hours

The Hearing Office shall be open for business from 8:00 a.m. to 5:00 p.m., Monday through Friday, except for holidays and days when the City offices are closed or on modified hours due to inclement weather, a declared state of emergency, or for other good cause. The Hearing Office accepts electronic filings at any time, but filings made outside the Hearing Office's business hours will be deemed filed the following business day.

Section 19-10 Good Cause Defined

Except as otherwise stated in this Rule 19, good cause may be shown by circumstances beyond a party's control and does not generally include inadvertence, mistake, neglect or carelessness of the moving party. The lack of prejudice to the non-moving party does not constitute good cause.

Section 19-15 Alternative Dispute Resolution Available

A party may request mediation pursuant to Rule 18 **DISPUTE RESOLUTION** at any time during the appeal process. Parties are encouraged, but not required, to participate in mediation. Mediation will only be held if all parties agree to participate. Requesting mediation shall not suspend the time limitation for filing an appeal.

Section 19-20 Actions Subject to Appeal  
(Revised February 24, 2023; Rule Revision Memo 85D)

A. Direct Appeals

1. A current employee who holds career status or a former employee who held career status in the Career Service must file an appeal directly with the Hearing Office in order to challenge the following action(s) of an appointing authority:
  - a. Dismissal;
  - b. Suspension or temporary reduction in pay;
  - c. Involuntary demotion with an attendant loss of pay;
  - d. Disqualification;

- e. Lay-off, or failure to re-instate (as may be required by Rule 3 **RECRUITMENT**); or
- f. A retaliatory adverse employment action, as defined by the City's "Whistleblower Protection" ordinance (attached as an appendix).
  - i. For any appeal filed pursuant to the "Whistleblower Protection" ordinance, the employee must identify in the Notice of Appeal the official misconduct reported, when and to whom the report was made, the retaliatory action, and when it occurred. The appeal may be dismissed with prejudice if the employee fails to comply with these requirements.
- g. No other action may be directly appealed.

It is not necessary that a grievance be filed, or an investigation be conducted before filing a direct appeal where it is alleged that the action being appealed involved discrimination, harassment or retaliation, or violation of the City's "Whistleblower Protection" ordinance. Discrimination, harassment, or retaliation can only be included as a part of a direct appeal.

- 2. Career Service employees who do not hold career status or former employees who did not hold career status may only file direct appeals when they allege a violation of the "Whistleblower Protection" ordinance.

B. Appeals of Grievances:

- 1. An employee who holds career status may only appeal a grievance response to the Hearing Office:
  - a. That alleges a violation of the Career Service Rules ("Rules"), the City Charter, ordinances relating to the Career Service, executive orders, or written agency policies which negatively impacted the employee's pay, benefits or status;
- 2. An employee who holds career status may also appeal a grievance:
  - a. In which the department or agency failed to implement the remedy granted and the grievant has notified the department or agency of the intent to file an appeal in accordance with Rule 18 **DISPUTE RESOLUTION**; or
  - b. In which the department or agency failed to respond as required by Rule 18 **DISPUTE RESOLUTION**.

3. The grievance must have been in conformance with and processed pursuant to the requirements of Rule 18 **DISPUTE RESOLUTION**.
4. Notwithstanding the above provisions, an employee in the Career Service cannot appeal a grievance of:
  - a. Any performance review rating or any other aspect of the performance review program;
  - b. A written reprimand;
  - c. An action that could have been the subject of a direct appeal;
  - d. Bonus or incentive payments, or any other aspect of the bonus or incentive program;
  - e. The mediation process;
  - f. A contemplation of discipline or disqualification notice or meeting;
  - g. The assignment to or removal from an acting role or working out of class assignment;
  - h. Alleged discrimination, retaliation, harassment, or violence in the workplace; or
  - i. Any action in which the remedy requested or available is outside the authority expressly granted to the Career Service Hearing Officer.

#### Section 19-30 Form of Appeal

Every appeal shall be on the form prescribed by the Hearing Office and shall include:

- A. The full name, mailing address, e-mail address, and telephone number of the employee ("appellant") filing the appeal;
  1. If a representative files the appeal on behalf of an employee, the appeal shall also contain the full name, mailing address (if filing by mail), e-mail address (if filing by email), and telephone number of the representative; and bar registration number if the representative is an attorney.
- B. The action which is the subject of the appeal;
- C. The reason for the appeal including, but not limited to, why the employee disagrees with the action which is the subject of the appeal;
- D. A statement of the remedy sought; and