

MEMORANDUM

RULE REVISION 91D

TO: Holders of Career Service Rule Books

FROM: Career Service Board

DATE: November 27, 2023

SUBJECT: Revision of Career Service Rules:

- 9-38 Interim Pay Practices
- 9-101 Retention Bonus

The above-mentioned Career Service Rule was revised and approved on November 16, 2023. Please replace the following pages in your books for revisions and repagination. Thank you.

<u>Page Numbers to Remove</u>	<u>Page Numbers to Insert</u>
Pages 9-6 through 9-11	Pages 9-6 through 9-11
Pages 9-33 and 9-34	Pages 9-33 and 9-34

3. The prospective employer is not a department or agency of the City; and
 4. The appointing authority has verified the authenticity of all job offers which constitute the basis for a counteroffer.
- C. The appointing authority shall submit a copy of the written offer of employment from the prospective employer with the Personnel Action Form.

9-38 Interim pay practices

(Revised November 16, 2023; Rule Revision Memo 91DD)

- A. The OHR Executive Director may, on a temporary basis, create or temporarily adjust a pay practice for any type of employee (e.g. career service, on-call, etc.), to increase pay, if any of the following conditions exist:
1. Recruitment and Retention Difficulties: If the following factors apply to one or more classifications within an agency or division of an agency:
 - a. Numerous vacancies exist in the classification(s) that will be affected by the proposed pay practice.
 - b. Recruitment has not been effective.
 - c. Retention rate is low; and
 - d. Market driven personnel shortages in the classification(s) are causing difficulty in fulfilling an essential mission of the City.
 2. City-wide Emergency: The Mayor has declared a city-wide emergency and the employees' regular or temporarily assigned duties are critical to address the emergency; or
 3. Mayoral Request: The Mayor requests the OHR Executive Director to create or adjust the pay practice on the basis of exigent circumstances or compelling operational needs.
- B. At the next regular Board meeting the OHR Executive Director must inform the Board of the interim pay practice and the basis for the interim pay practice. If the Board does not agree with the interim pay practice then, upon a majority vote of a quorum of the Board members attending the meeting, the interim pay practice shall be suspended immediately or within a specified time period designated by the Board.
- C. An interim pay practice shall remain in effect for the time specified by the OHR Executive Director or the Board or for a period of six (6) months, which ever is shorter, and may be extended by the OHR Executive Director for increments of time not to exceed six (6) months. The OHR Executive Director shall follow the process set forth in subparagraph B, above, with respect to each approved extension.

9-39 Pay adjustment within the salary range
(Revised August 19, 2021; Rule Revision Memo 69D)

- A. An appointing authority may adjust pay for an employee, within that employee's current salary range, if the purpose is to eliminate a pay disparity, so long as that employee's pay is being compared with the pay of another employee who is:
1. In the same classification; or
 2. In the same classification series; or
 3. In a classification within the same job family performing comparable types of duties; or (Revised April 9, 2021, Rule Revision 66D)
 4. Subordinate to the existing employee in that employee's chain of command.
- B. OHR Classification and Compensation will review employees' pay across departments or agencies within the same classification(s), within the same classification series, or within the classification(s) with the same career path and comparable duties. (Revised August 19, 2021; Rule Revision 69D)
- C. A pay adjustment within the salary range requires the approval of the OHR Executive Director. The effective date of any such pay adjustment shall be the beginning of the work week following approval by the OHR Executive Director.
- In the case of extraordinary circumstances, and with the approval of the OHR Executive Director, the effective date of the pay adjustment may be for a retroactive date at the beginning of a work week. However, no retroactive pay adjustment shall extend into the prior fiscal year.
- D. Pay adjustment requests cannot be implemented after the last Sunday of November nor before the first Sunday of March. (Revised July 21, 2022; Rule Revision Memo 79D)
- E. The appointing authority's request for approval shall explain:
1. The reason the pay inequity exists, including information about how pay factors (as listed in Rule 9-5F and/or Appendix 7.A) have contributed to the pay inequity; and
 2. If applicable, why employees in the same classification in the same work group are not being considered in the request. This explanation should include information about how the excluded employees are not affected by the pay factors (as listed in Rule 9-5F and/or Appendix 7.A).

Section 9-40 Pay Adjustment for On-Call Employees
(Revised April 9, 2018; Rule Revision Memo 38D)

On-Call employees are not eligible for merit increases and merit payments. However, an
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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 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 in a year period from the pay increase effective date.

Section 9-50 Pay Differentials and Pay Practices

(Re-numbered December 21, 2012; Rule Revision Memo 66C)

951 Shift Differential

(Revised March 11, 2019; Rule Revision Memo 51C, Revised April 9, 2021, Rule Revision 66D)

A Employee eligibility:

1. Employees in classifications in non-exempt pay tables are eligible for shift differential, unless the employee is eligible for the health care differential as provided in this Rule 9 **PAY ADMINISTRATION**.
2. Employees in classifications in exempt pay tables are not eligible for shift differential, unless the employee is in a classification:
 - a. In which the OHR Executive Director has approved overtime based on community practice (unless also eligible for the health care differential as provided in this Rule 9 **PAY ADMINISTRATION**); or
 - b. That is a first-line supervisory classification and the employee's primary duties include directly supervising employees who have no subordinate supervisors and who are receiving shift differential for the time the employee (first-line supervisor) is supervising them.
3. Employees in classifications in community rate pay tables are not eligible for shift differential. (Revised May 31, 2017; Rule Revision Memo 27D)
4. The OHR Executive Director, upon the request of an appointing authority, may allow a department or agency to exclude otherwise eligible employees from receiving shift differential based on community practice. Requests based on other reasons require submission by the OHR Executive Director and approval by the Board.

B. The following rates shall be paid for shift differential:

1. Night rate: Twelve percent (12%) of the current hourly rate of pay.
2. Evening rate: Seven percent (7%) of the current hourly rate of pay.

- C. Shift differential shall be paid for all hours worked by an eligible employee in a workday under the following conditions:
1. If at least half of the hours worked occur between 11 p.m. and 7 a.m. the employee shall receive the night rate.
 2. If at least half of the hours worked occur between 3 p.m. and 11 p.m. the employee shall receive the evening rate, unless the other half of the hours worked occur between 11 p.m. and 7 a.m., in which case the employee will receive the night rate.
 3. If neither subparagraph 1 or 2 are applicable, but at least half of the hours worked occur between 3 p.m. and 7 a.m., the employee shall receive the applicable rate for the period in which a majority of the hours occur. If these hours are evenly divided between 3 p.m. and 11 p.m. and 11 p.m. and 7 a.m., the employee shall receive the night rate.
 4. If the employee's regularly scheduled shift is eligible for shift differential and that employee's shift is extended due to no fault of their own, such as through mandated overtime or late relief, and such extension would cause the employee to lose shift differential eligibility, the shift differential shall still be applied to the regularly scheduled shift worked.
- D. Shift differential shall not be paid during any period of paid or unpaid leave.

9-52 Equipment Differential

A. Eligibility:

1. Equipment differential shall be paid to employees who are temporarily assigned to operate equipment, which is at a higher-level classification than the employee's current classification, and who are not receiving additional pay for a work assignment outside of job classification.
 2. Employees in on-call positions including classifications in community rate pay tables shall be entitled to equipment differential. (Revised May 31, 2017; Rule Revision Memo 27D, Revised April 9, 2021; Rule Revision 66D)
- B. Equipment differential shall be paid under the following conditions:
1. The equipment being operated is on the Board's approved equipment list for payment of equipment differential.
 2. Assignment in the higher-level classification must last for less than thirty (30) days. If all authorized limited positions for a term of nine (9) months or less are filled, the thirty (30) day limit is waived.

- C. The pay shall be ten percent (10%) of the current hourly rate of pay for each hour worked in the next higher-level classification. The pay shall be fifteen percent (15%) of the current hourly rate of pay for each hour worked in the second higher level classification and above.
- D. The total base pay for any pay period, excluding overtime and shift differential, shall not exceed the range maximum of the higher-level classification (Revised October 17, 2010; Rule Revision Memo 47C).

9-53 Health Care Differential

- A. Career Service employees who are employed by the Denver Health and Hospital Authority (“DHHA”) in classifications in the Healthcare job family are eligible for health care differentials paid to comparable classifications at DHHA. (Revised July 31, 2015; Rule Revision Memo 12D, Revised April 9, 2021; Rule Revision Memo 66D)
- B. The differentials, eligibility criteria, and rates shall be established by DHHA.

9-54 RESERVED FOR FUTURE USE

(Revised August 6, 2018; Rule Revision Memo 44D)

9-55 Standby Pay

(Revised July 25, 2006; Rule Revision Memo 11C)

- A. Appointing authorities may schedule employees to be on standby duty only when there is a reasonable anticipation that the employee will have to respond and perform work immediately. Eligible employees shall receive an amount equal to one and one half (1 1/2) hours of work at the employee’s straight time hourly rate for each eight hours the employee is on standby duty.
- B. To be eligible for standby pay, the employee must be:
 - 1. Eligible for overtime under the Fair Labor Standards Act (“FLSA”) or under paragraphs A, B or D of subsection 9-93 Overtime Exceptions.
 - 2. Scheduled to be available by pager, cellular phone, or telephone.
 - 3. Required to respond to a call and perform work within a designated amount of time not to exceed two hours.
 - 4. In a non-impaired condition that allows the employee to safely perform job duty assignments; and,
 - 5. Subject to disciplinary action if he or she does not respond to the call within the designated amount of time.
- C. When an eligible employee on standby is required to perform work, standby pay will be suspended and the employee will be paid basic pay or overtime pay, as

appropriate, for the period the employee performs work.

- D. An employee who merely carries a cellular telephone or pager as a routine part of his or her job duties is not eligible for standby pay unless all the conditions set forth in paragraph B of this subsection are met.

9-56 Call Back Pay

- A. Overtime eligible employees required by the appointing authority to report back to the work site shall be paid a minimum amount equal to two (2) hours of work at the employee's scheduled rate of pay from the time the employee begins work.
- B. Employees who work more than two hours shall be paid for the actual time worked.

9-57 Swim Instruction Differential

(Effective February 22, 2013; Rule Revision Memo 3D)

- A. The Manager of Parks and Recreation will allow eligible employees to receive a Swim Instruction Differential for group or private swim lessons conducted at City-owned recreation facilities. The Department of Parks and Recreation retains the right to revoke eligibility for the differential for any business-related reason, at any time.
- B. In order to be eligible to receive the Swim Instruction Differential, an employee must:
 - 1. Be classified as a Lifeguard.
 - 2. Have current certifications for Water Safety Instructor (WSI), First Aid (adult/infant/child) and Cardiopulmonary Resuscitation for the Professional Rescuer (CPR/PR); and
 - 3. Be assigned to conduct the swim lesson(s) by management.
- C. Amount of Differential:
 - 1. Employees will receive their current hourly rate of pay for time spent conducting swim lessons.
 - 2. In addition, employees will receive the following swim lesson differential.
 - a. Fifty percent (50%) of the employee's current hourly rate of pay for time spent teaching a group swim lesson.
 - b. Seventy-five percent (75%) of the employee's current hourly rate of pay for time spent teaching a private swim lesson.

Section 9-101 Retention Bonus

(Revised November 23, 2023; Rule Revision Memo 91D)

- A In order to retain a highly qualified employee(s) whose skills, knowledge and/or abilities are deemed essential to the mission and operations of the City, a department or agency may, upon approval of the OHR Executive Director, pay a retention bonus to a current employee(s) at the end of a specified period of time.
- B The payment of any retention bonus must be justified in writing and submitted by the appointing authority to the OHR Executive Director for approval.
- C The following standards shall apply to an appointing authority's request for approval to pay a retention bonus:
 - 1. The success (or lack thereof) of recent efforts to recruit external candidates for the same positions, using indicators such as job offer acceptance rates, the length of time required to fill similar positions, turnover rates, and the probable cost of additional recruitment efforts if the current employee(s) resigns;
 - 2. Employment trends and competition in the local labor market that make it difficult to recruit candidates for the same positions or that entice current employees to resign from the city;
 - 3. The degree to which essential services have been disrupted;
 - 4. Special qualifications or competencies (i.e., knowledge, skills, abilities, education, etc.) required for the position. These competencies must be applicable to a vast majority of the duties and responsibilities of the job and/or be of critical importance to the job;
 - 5. The desirability of the duties, work, or organizational environment of the position;
 - 6. The employee's work history, including length of employment with the city, performance ratings, and disciplinary record; and
 - a) A retention bonus will not be considered for any employee that has been formally disciplined in the 12 months preceding the appointing authority's request for approval to pay a retention bonus;
 - b) A retention bonus will not be given to any employee that received a Development Needed or Unacceptable performance rating in the prior year performance evaluation period.
 - c) To receive a retention bonus, an employee must have been employed with the Agency in the same classification for a minimum of 12 months prior to the start of the retention period. Exceptions may be made for on-call employees.

- d) A retention bonus will not be given to any employee who received a recruitment bonus for the same classification.
 - e) A retention bonus will not be given to an employee working out of class.
7. Any other supporting factors.
- D. No retention bonus may exceed \$5,000 to any employee in single or multiple payments and the amount of any payment should be scaled in proportion to the position, the level of need, and the length of the retention period. The amount of the bonus will not be grossed-up to cover taxes and other deductions on behalf of the employee.
 - E. No retention bonus shall be offered to an employee prior to final approval by the OHR Executive Director. The appointing authority's request for approval to pay a retention bonus indicates sufficient existing budget funds to cover the expense.
 - F. If payment of a retention bonus is approved, the agency or department will enter into an agreement with the employee(s) in which the employee(s) agrees to continue to be employed in their current position for a specified period of time in exchange for receiving the retention bonus at the end of that specified period of time. Payment of a retention bonus and the employee's acceptance of these terms shall not constitute an employment contract. The terms of the agreement must include the following:
 - 1. The agreement does not prohibit the agency or department from applying and enforcing the Career Service Rules, including Rule 16, during the retention period.
 - 2. If the employee receives a suspension, a temporary reduction in pay, or is terminated or involuntarily demoted pursuant to Rule 16 prior to the end of the specified retention period, the employee shall forfeit the bonus.
 - 3. If the employee takes leave without pay for two or more weeks (consecutively and/or intermittently), resigns, retires, promotes, transfers, works out of class, or voluntarily demotes during the retention period, the employee will forfeit their right to the retention payment.

(Section 9-102 Commuter Stipend revised and removed March 20, 2023; Rule Revision Memo 86D)