

Denver Revised Municipal Code 2-98 Emergency rules – Any adopting authority may adopt rules without following the notice and hearing requirements of this article if such action is necessary to comply with state, local or federal law or if it is deemed necessary by the adopting authority to protect immediately the public health, safety or welfare. After adoption, the complete text of rules so adopted shall be filed with the city clerk and a notice of adoption shall be published. Rules adopted in such cases shall take effect on the date of adoption, or such later date as stated in the notice of adoption of the rules. However, such rules shall not continue in effect for more than one hundred eighty (180) days after the date of their adoption and may not be re-adopted in the same or substantially the same form without meeting the rule-making requirements described in other sections of this article.

EMERGENCY RULE REVISION 9-73 B

TO: Appointing Authorities, Managers, and Employees
FROM: Karen Niparko, OHR Executive Director
DATE: March 26, 2020
SUBJECT: Emergency adoption of revisions to Career Service Rule 9-73 B Interruption of Work and Pay during City-wide Emergency

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
<p>Work interruptions during a City-wide emergency declared by the Mayor: In addition to pay for the interrupted work hours, employees who work during the hours of a City-wide emergency declared by the Mayor are eligible for compensation for working during hours attributed to the emergency condition as follows:</p> <p>1. Non-exempt employees shall also receive pay for the actual time they work during the City-wide emergency. For purposes of determining if an employee is entitled to overtime, the work hours interrupted by the City-wide emergency shall be counted as time worked in addition to time actually worked and other amounts, such as paid holidays, periods of paid leave, or any discharge of compensatory time, as provided by the overtime provisions of this rule.</p> <p>2. a. An employee exempt from overtime shall be paid at the straight time hourly rate for each hour worked that was related to the emergency. Interrupted work hours during a City-wide emergency count as time worked and exempt</p>	<p>Employees may be re-deployed to work in other capacities in their own agencies or in other City agencies to support core functions of the City during a City-wide emergency declared by the Mayor. Non-exempt employees shall be paid at their regular rate of pay for actual hours worked in a re-deployment assignment, and shall be eligible for overtime in accordance with Section 9-90 <u>Overtime</u>. Exempt employees eligible for overtime shall be paid their regular salary during any workweek in which they are re-deployed, and shall be eligible for overtime in accordance with 9-93 Overtime Exceptions.</p>	<p>Rule 9-73 B</p>	<p>The revisions make it clear that employees may be re-deployed in other capacities to support the core functions of the City in a City-wide emergency.</p> <p>The revisions also remove the requirement that, in addition to their regular rate of pay/salary for the interrupted work hours, employees will be paid at their straight time hourly rate for each hour worked during a City-wide emergency, and that the work hours interrupted count as time</p>

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<p>employees eligible for overtime in accordance with 9-93 Overtime Exceptions will be compensated for hours beyond forty (40).</p> <p>b. City-wide emergency pay may be paid in either cash or compensatory time off, at the discretion of the appointing authority. Compensatory time may be taken at any time mutually convenient to the employee and the appointing authority. All accrued compensatory time shall be used by March 31st of each calendar year or paid in cash by the final pay period in April of that year (Revised January 1, 2010; Rule Revision Memo 42C).</p> <p>3. Employees who were on other leave such as paid time off, vacation, compensatory time, sick, or unpaid leave must use that leave unless called back to work. When called back to work, unused leave hours are returned to the banks and work hours are counted.</p> <p>4. Employees who telecommute must have prior written approval to telecommute from their appointing authority or designee. The written approval shall include the employee's assignment while telecommuting. An employee must demonstrate that he or she accomplished the assignment in accordance with the written approval.</p>	<p>Exempt employees not eligible for overtime shall be paid their regular salary during any workweek in which they are re-deployed.</p> <p>Employees who were on other leave such as paid time off, vacation, compensatory time, sick, or unpaid leave at the time of a work interruption must use that leave unless called back to work. When called back to work, unused leave hours are returned to the banks and work hours are counted.</p>		<p>worked for overtime purposes along with paid holidays, paid leave and discharge of compensatory time.</p> <p>The revised rule provides that non-exempt employees who are redeployed will be paid at their regular rate of pay for actual hours worked during a City-wide emergency, and be eligible for overtime; and that exempt employees and overtime eligible exempt employees who are re-deployed will be paid their regular salary, and overtime eligible employees will be eligible for overtime.</p> <p>The intent of the rule is to allow the City to immediately cease paying employees who are redeployed up to two and one-half times their regular pay, as allowed under the overly generous current rule that was</p>

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			<p>clearly never intended to apply during a City-wide emergency of the magnitude of the Covid-19 pandemic, and is not financially sustainable during such a crisis.</p> <p>The revisions also clarify that only employees who were on leave at the time the work interruption occurred are required to use that leave unless called back to work.</p> <p>The intent behind this revision was to clarify that only those employees who were on leave at the time of the work interruption are required to use their paid leave, and that it does not employees who were planning to use paid leave during an extensive work interruption and are unable to do so.</p>

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

9-73 ***Interruption of Work and Pay during City-wide Emergency Pay and Redeployment***

(Effective June 8, 2007; Rule Revision Memo 20C: Re-numbered October 10, 2008; Rule Revision Memo 32C)

- A. An employee who is excused from work for the day or any part of the day when the work program is interrupted (e.g., because of weather) shall be considered to have worked the number of hours included in his or her regular daily schedule. An on-call employee who is called to work and not assigned because of an interruption or change in the work program shall be considered to have worked two (2) hours on that day.

- B. ~~Work interruptions during a City-wide emergency declared by the Mayor:~~

Employees may be redeployed to work in other capacities in their own agencies or in other City agencies in accordance with the City's redeployment plan to support core functions of the City during a City-wide emergency declared by the Mayor. Non-exempt employees shall be paid at their regular rate of pay for actual hours worked in a redeployment assignment, and shall be eligible for overtime in accordance with Section 9-90 Overtime. Exempt employees eligible for overtime shall be paid their regular salary during any workweek in which they are redeployed, and shall be eligible for overtime in accordance with 9-93 Overtime Exceptions. Exempt employees not eligible for overtime shall be paid their regular salary during any workweek in which they are redeployed. Nothing in this rule prevents the City from authorizing additional pay for some or all employees working in redeployment assignments during a City-wide emergency declared by the Mayor.

~~In addition to pay for the interrupted work hours, employees who work during the hours of a City-wide emergency declared by the Mayor are eligible for compensation for working during hours attributed to the emergency condition as follows:~~

1. ~~Non-exempt employees shall also receive pay for the actual time they work during the City-wide emergency. For purposes of determining if an employee is entitled to overtime, the work hours interrupted by the City-wide emergency shall be counted as time worked in addition to time actually worked and other amounts, such as paid holidays, periods of paid leave, or any discharge of compensatory time, as provided by the overtime provisions of this rule.~~

2. a. ~~An employee exempt from overtime shall be paid at the straight time hourly rate for each hour worked that was related to the emergency. Interrupted work hours during a City-wide emergency count as time worked and exempt employees~~

~~eligible for overtime in accordance with 9-93 Overtime Exceptions will be compensated for hours beyond forty (40).~~

- ~~b. City-wide emergency pay may be paid in either cash or compensatory time off, at the discretion of the appointing authority. Compensatory time may be taken at any time mutually convenient to the employee and the appointing authority. All accrued compensatory time shall be used by March 31st of each calendar year or paid in cash by the final pay period in April of that year (Revised January 1, 2010; Rule Revision Memo 42C).~~
3. Employees who were on other leave such as paid time off, vacation, compensatory time, sick, or unpaid leave ***at the time of a work interruption*** must use that leave unless called back to work. When called back to work, unused leave hours are returned to the banks and work hours are counted (Revised January 1, 2010; Rule Revision Memo 42C).
4. ~~Employees who telecommute must have prior written approval to telecommute from their appointing authority or designee. The written approval shall include the employee's assignment while telecommuting. An employee must demonstrate that he or she accomplished the assignment in accordance with the written approval.~~

9-73 Interruption of Work and City-wide Emergency Pay and Redeployment

(Effective June 8, 2007; Rule Revision Memo 20C: Re-numbered October 10, 2008; Rule Revision Memo 32C; Emergency Rule Revision Effective March 26, 2020, expires September 22, 2020)

- A. An employee who is excused from work for the day or any part of the day when the work program is interrupted (e.g., because of weather) shall be considered to have worked the number of hours included in his or her regular daily schedule. An on-call employee who is called to work and not assigned because of an interruption or change in the work program shall be considered to have worked two (2) hours on that day.

- B. Employees may be redeployed to work in other capacities in their own agencies or in other City agencies in accordance with the City's re-deployment plan to support core functions of the City during a City-wide emergency declared by the Mayor. Non-exempt employees shall be paid at their regular rate of pay for actual hours worked in a redeployment assignment, and shall be eligible for overtime in accordance with Section 9-90 Overtime. Exempt employees eligible for overtime shall be paid their regular salary during any workweek in which they are redeployed, and shall be eligible for overtime in accordance with 9-93 Overtime Exceptions. Exempt employees not eligible for overtime shall be paid their regular salary during any workweek in which they are redeployed. Nothing in this rule prevents the City from authorizing additional pay for some or all employees working in redeployment assignments during a City-wide emergency declared by the Mayor.

Employees who were on other leave such as paid time off, vacation, compensatory time, sick, or unpaid leave at the time of a work interruption must use that leave unless called back to work. When called back to work, unused leave hours are returned to the banks and work hours are counted (Revised January 1, 2010; Rule Revision Memo 42C).