

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. 676

A Career Service Board Public Hearing has been scheduled regarding the proposed adoption of revisions to **Career Service Rule 12 - ACCOMMODATIONS FOR DISABILITY, PREGNANCY, EXTENDED ILLNESS OR INJURY, AND LEAVE.**

A Career Service Board Meeting regarding Public Hearing Notice No. 676 is scheduled for **Thursday, December 15, 2022, at 9:00 AM**, in the Webb Municipal Building, located at 201 West Colfax Avenue, Denver, CO, in the Career Service Hearings Office on the 1st floor.

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

Cinthia Febres-Sutherland  
Administrator  
Office of Human Resources  
(720) 913-5650  
[cinthia.febres-sutherland@denvergov.org](mailto:cinthia.febres-sutherland@denvergov.org)

Comments regarding this notice should be submitted **no later than 12:00 PM on Monday, December 12, 2022.**

If anyone wishes to address the Board regarding this notice, please contact Cinthia Febres-Sutherland at (720) 913-5650 or at [cinthia.febres-sutherland@denvergov.org](mailto:cinthia.febres-sutherland@denvergov.org) **no later than 12:00 PM on Monday, December 12, 2022**, 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.

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**AS SOON AS POSSIBLE**

**RULE PROPOSAL 82D**

**TO: Appointing Authorities, Managers, and Employees**  
**FROM: Kathy Nesbit, OHR Executive Director**  
**DATE: Friday, December 2, 2022**  
**SUBJECT: Proposed Adoption of Revisions to Career Service Rule 12 - ACCOMMODATIONS FOR DISABILITY, PREGNANCY, EXTENDED ILLNESS OR INJURY, AND LEAVE**

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

**December 15, 2022, at 9:00 A.M.**

<b>CURRENT RULE</b>	<b>REVISED RULE</b>	<b>RULE NUMBER</b>	<b>REVISION INTENTION &amp; IMPACT</b>
<p>RULE 12  <u>Section 12-20 FMLA Policy</u>            12-23 <u>Requesting FMLA leave</u></p> <p>A. An employee may expressly request FMLA leave, or may merely state that he or she needs leave for a reason which the appointing authority knows is a qualifying reason for FMLA leave. In either instance, the appointing authority shall notify the employee that the leave may qualify as FMLA leave and refer the employee to their designated leave representative.</p> <p>B. In any situation where the need for FMLA leave is foreseeable, an employee shall provide thirty (30) days' notice or notice as soon as is practicable.</p> <p>C. In any situation where the need for FMLA leave is not foreseeable, the employee shall provide such notice as soon as is practicable. Such notice may be provided by the employee or the employee's spokesperson if the employee is unable to do so personally.</p>	<p>RULE 12  <u>Section 12-20 FMLA Policy</u>            12-23 <u>Requesting FMLA leave</u></p> <p>A. An employee may expressly request FMLA leave, or may merely state that he or she needs leave for a reason which the appointing authority knows is a qualifying reason for FMLA leave. In either instance, the appointing authority shall notify the employee that the leave may qualify as FMLA leave and refer the employee to their designated leave representative.</p> <p>B. In any situation where the need for FMLA leave is foreseeable, an employee shall provide thirty (30) days' notice or notice as soon as is practicable.</p> <p>C. In any situation where the need for FMLA leave is not foreseeable, the employee shall provide such notice as soon as is practicable. Such notice may be provided by the employee or the employee's spokesperson if the employee is unable to do so personally.</p>	<p>12-20</p>	<p>Removes the requirement that employees state whether they have a spouse or domestic partner employed by the City and County of Denver.</p>

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
<p>D. An employee requesting FMLA leave must provide to their designated leave representative all information necessary to determine if such leave is appropriate, including:</p> <ol style="list-style-type: none"> <li>1. The reasons for the leave so as to allow for determining if the conditions identified in subsection 12-21 of this Rule have been met.</li> <li>2. The anticipated start of the leave.</li> <li>3. The anticipated duration of the leave.</li> <li>4. Whether the employee has a spouse or domestic partner who is also an employee of the City and County of Denver.</li> <li>5. A health care provider certification on a form provided by the appointing authority consistent with the FMLA. Information provided to the employee's leave representative and/or appointing authority regarding an employee's FMLA leave shall be maintained in a confidential file separate from the employee's personnel file.</li> </ol>	<p>D. An employee requesting FMLA leave must provide to their designated leave representative all information necessary to determine if such leave is appropriate, including:</p> <ol style="list-style-type: none"> <li>1. The reasons for the leave so as to allow for determining if the conditions identified in subsection 12-21 of this Rule have been met.</li> <li>2. The anticipated start of the leave.</li> <li>3. The anticipated duration of the leave.</li> <li><del>4. Whether the employee has a spouse or domestic partner who is also an employee of the City and County of Denver.</del></li> <li><del>5.</del> A health care provider certification on a form provided by the appointing authority consistent with the FMLA. Information provided to the employee's leave representative and/or appointing authority regarding an employee's FMLA leave shall be maintained in a confidential file separate from the employee's personnel file.</li> </ol>		

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
<p>12-24 <u>Use of FMLA leave</u> (Revised June 24, 2019; Rule Revision Memo 54D)</p> <p>A. The twelve (12) month period shall begin when FMLA leave was first used by an employee. No more than twelve (12) workweeks of FMLA leave may be used in a designated twelve (12) month period.<sup>1</sup> <u>Exception:</u></p> <p style="padding-left: 40px;">1. An employee may be able to use up to twenty-six (26) workweeks of leave under the FMLA to care for a covered servicemember, as defined in the FMLA and corresponding federal regulations, with a serious injury or illness.</p> <p>B. FMLA leave shall be granted consecutively, intermittently or on a reduced leave schedule, as provided for under the FMLA. However, if an employee requests FMLA leave intermittently or on a reduced leave schedule after the birth or placement of a child for adoption, or foster care or legal guardianship, such leave shall be granted only if it is consistent with the reasonable operational necessity of the agency, as determined by the appointing authority.</p> <p>C. It is the appointing authority's responsibility to designate qualifying leave as FMLA leave and the appointing authority shall notify the employee of such</p>	<p>12-24 <u>Use of FMLA leave</u> <del>(Revised June 24, 2019; Rule Revision Memo 54D)</del></p> <p>A. The twelve (12) month period shall begin when FMLA leave was first used by an employee. No more than twelve (12) workweeks of FMLA leave may be used in a designated twelve (12) month period.<sup>1</sup> <u>Exception:</u></p> <p style="padding-left: 40px;">1. An employee may be able to use up to twenty-six (26) workweeks of leave under the FMLA to care for a covered servicemember, as defined in the FMLA and corresponding federal regulations, with a serious injury or illness.</p> <p>B. FMLA leave shall be granted consecutively, intermittently or on a reduced leave schedule, as provided for under the FMLA. However, if an employee requests FMLA leave intermittently or on a reduced leave schedule after the birth or placement of a child for adoption, or foster care or legal guardianship, such leave shall be granted only if it is consistent with the reasonable operational necessity of the agency, as determined by the appointing authority.</p> <p>C. It is the appointing authority's responsibility to designate qualifying leave as FMLA leave and the appointing authority shall notify the employee of such designation</p>	<p>12-24</p>	<p>Removes the requirement that employees who are married to, or in a domestic partnership with, another City employee must share one 12-week leave period, allowing each spouse/partner to take a full 12-week leave period.</p>

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
<p>designation and provide other required information about FMLA leave. An employee cannot refuse to allow the appointing authority to designate qualifying leave as FMLA leave.</p> <p>D. FMLA leave is unpaid leave. An employee may elect to use available paid leave, which will run concurrently with unpaid FMLA leave, subject to the limitations in this Rule 12 on the use of paid leave while on salary continuation leave or Workers' Compensation leave.</p> <p>E. In the case where both spouses or domestic partners are employees, and the FMLA leave is because of birth, adoption, foster care or legal guardianship of a child, the FMLA leave available for bonding shall be the combined total of twelve (12) weeks of FMLA leave during the designated twelve (12) month period.</p>	<p>and provide other required information about FMLA leave. An employee cannot refuse to allow the appointing authority to designate qualifying leave as FMLA leave.</p> <p>D. FMLA leave is unpaid leave. An employee may elect to use available paid leave, which will run concurrently with unpaid FMLA leave, subject to the limitations in this Rule 12 on the use of paid leave while on salary continuation leave or Workers' Compensation leave.</p> <p><del>E. In the case where both spouses or domestic partners are employees, and the FMLA leave is because of birth, adoption, foster care or legal guardianship of a child, the FMLA leave available for bonding shall be the combined total of twelve (12) weeks of FMLA leave during the designated twelve (12) month period.</del></p>		-

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

**RULE 12  
ACCOMMODATIONS FOR DISABILITY, PREGNANCY,  
EXTENDED ILLNESS OR INJURY, AND LEAVE**

Purpose statement:

The purpose of this rule is to provide guidelines and policies for administering accommodations and extended time off for pregnancy, a pregnancy-related condition, physical recovery from childbirth, placement of a child for adoption, foster care, guardianship, and extended illness or injury, or a disability.

Section 12-10 Topics Covered by this Rule

- A. Family and Medical Leave Act (“FMLA”);
- B. Colorado Family Care Act (“FCA”);
- C. Military Caregiver leave;
- D. Salary continuation and Workers’ Compensation;
- E. Americans with Disabilities Act (“ADA”) accommodations and the ADA Interactive Process; and
- F. Leave and Accommodations for Pregnancy and Childbirth in compliance with the Pregnancy Discrimination Act.

Section 12-15 Designees

Appointing authorities, including the Office of Human Resources (“OHR”) Executive Director, may delegate any authority given to them under this rule to a subordinate employee.

THE FAMILY and MEDICAL LEAVE ACT (“FMLA”)

Section 12-20 FMLA Policy

It is the policy of the Career Service Board to provide leave under the FMLA to eligible employees. The purpose of FMLA leave is to provide up to twelve weeks of job-protected leave in a designated twelve-month period to eligible employees for specified family members and medical reasons. This rule is intended to comply with and be interpreted consistent with the FMLA and its corresponding regulations. To the extent an issue is not addressed herein, or if there is a conflict with a Career Service Rule, the FMLA and its corresponding regulations shall govern.

12-21 When Leave under the FMLA May be Used

FMLA leave shall only be available:

- A. For the birth of and bonding with a newborn child of the employee (including a newborn child born into a domestic partnership or civil union);
- B. For placement of a child with the employee, the employee's domestic partner (as defined in Rule 10 PAID LEAVE) or the employee's partner in a civil union (as defined in Rule 10 PAID LEAVE) for adoption, foster care or legal guardianship;
- C. To care for an employee's parent (or individual who acted as a parent to the employee), spouse, or child with a qualifying serious health condition, as defined in the FMLA and its corresponding regulations;
- D. To take leave when the employee is unable to perform the functions of the employee's job because of a qualifying serious health condition; or
- E. For any other reason authorized by the FMLA.

12-22 Eligibility for FMLA leave

An employee may be eligible for FMLA leave if the employee has:

- A. Been employed by the City for at least twelve (12) months in the last seven (7) years; and
- B. Worked at least twelve hundred fifty (1,250) hours in the twelve (12) months immediately preceding the beginning of the FMLA leave.

12-23 Requesting FMLA leave

- A. An employee may expressly request FMLA leave, or may merely state that he or she needs leave for a reason which the appointing authority knows is a qualifying reason for FMLA leave. In either instance, the appointing authority shall notify the employee that the leave may qualify as FMLA leave and refer the employee to their designated leave representative.
- B. In any situation where the need for FMLA leave is foreseeable, an employee shall provide thirty (30) days' notice or notice as soon as is practicable.
- C. In any situation where the need for FMLA leave is not foreseeable, the employee shall provide such notice as soon as is practicable. Such notice may be provided by the employee or the employee's spokesperson if the employee is unable to do so personally.
- D. An employee requesting FMLA leave must provide to their designated leave representative all information necessary to determine if such leave is appropriate, including:
  - 1. The reasons for the leave so as to allow for determining if the conditions identified in subsection 12-21 of this Rule have been met.

2. The anticipated start of the leave.
3. The anticipated duration of the leave.

~~4. Whether the employee has a spouse or domestic partner who is also an employee of the City and County of Denver.~~

~~5.4.~~ A health care provider certification on a form provided by the appointing authority consistent with the FMLA. Information provided to the employee's leave representative and/or appointing authority regarding an employee's FMLA leave shall be maintained in a confidential file separate from the employee's personnel file.

- E. A request for FMLA leave which does not satisfy the conditions identified in subsection 12-21 of this Rule may be denied or delayed.
- F. A denial of a request for FMLA leave shall not preclude granting PTO or sick leave if the conditions identified in RULE 10 PAID LEAVE are met.

12-24 Use of FMLA leave  
(Revised June 24, 2019; Rule Revision Memo 54D)

A. The twelve (12) month period shall begin when FMLA leave was first used by an employee. No more than twelve (12) workweeks of FMLA leave may be used in a designated twelve (12) month period.<sup>1</sup> Exception:

1. An employee may be able to use up to twenty-six (26) workweeks of leave under the FMLA to care for a covered servicemember, as defined in the FMLA and corresponding federal regulations, with a serious injury or illness.

B. FMLA leave shall be granted consecutively, intermittently or on a reduced leave schedule, as provided for under the FMLA. However, if an employee requests FMLA leave intermittently or on a reduced leave schedule after the birth or placement of a child for adoption, or foster care or legal guardianship, such leave shall be granted only if it is consistent with the reasonable operational necessity of the agency, as determined by the appointing authority.

C. It is the appointing authority's responsibility to designate qualifying leave as FMLA leave and the appointing authority shall notify the employee of such designation and provide other required information about FMLA leave. An employee cannot refuse to allow the appointing authority to designate qualifying leave as FMLA leave.

D. FMLA leave is unpaid leave. An employee may elect to use available paid leave, which will run concurrently with unpaid FMLA leave, subject to the limitations in this Rule 12 on the use of paid leave while on salary continuation leave or Workers' Compensation leave.

~~E. In the case where both spouses or domestic partners are employees, and the FMLA leave is because of birth, adoption, foster care or legal guardianship of a child, the FMLA leave available for bonding shall be the combined total of twelve (12) weeks of FMLA leave during the designated twelve (12) month period.~~