

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. 681

A Career Service Board Public Hearing has been scheduled regarding the proposed adoption of revisions to 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

Career Service Rule 13-21 – Performance Reviews

A Career Service Board Meeting regarding Public Hearing Notice No. 681 is scheduled for **Tuesday, February 21, 2023, at 8:30 AM**, in the Webb Municipal Building, located at 201 W. Colfax Ave., Denver, Colorado, in the Career Service Hearings Office on the first floor.

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

Cinthia Febres-Sutherlin
Administrator
Office of Human Resources
720-337-6447
cinthia.febres-sutherlin@denvergov.org

Comments regarding this notice should be submitted **no later than 12:00 PM on Thursday, February 16, 2023.**

If anyone wishes to address the Board regarding this notice, please contact Cinthia Febres-Sutherlin at 720-337-6447 or at cinthia.febres-sutherlin@denvergov.org **no later than 12:00 PM on Thursday, February 16, 2023**, 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 85D

TO: Appointing Authorities, Managers and Employees
FROM: Kathy Nesbit, OHR Executive Director
DATE: Friday, February 3, 2023 (*Revised Friday, February 10, 2023*)
SUBJECT: Proposed Adoption of Revisions to 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
 Career Service Rule 13-21 – Performance Reviews

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

Tuesday, February 21, 2023, at 8:30 AM

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
<p>9-69 <u>911 Communications Training Officer Stipend</u></p> <p>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:</p> <p>4. The employee was rated “Successful” or higher in the employee’s most recent performance evaluation and continues to receive performance evaluations of “Successful” or higher while receiving the CTO stipend.</p>	<p>9-69 <u>911 Communications Training Officer Stipend</u></p> <p>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:</p> <p>4. The employee was rated “Successful” “Thriving” or higher in the employee’s most recent performance evaluation and continues to receive performance evaluations of “Successful” “Thriving” or higher while receiving the CTO stipend.</p>	<p>9-69 A.4</p>	<p>This revision reflects the changes to the performance ratings proposed in Rule 13-31.A that include having three ratings rather than five and re-naming the middle rating from “Successful” to “Thriving.” This revision has no impact on the application of this rule.</p>

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
<p>9-101 <u>Retention Bonus</u></p> <p>D. The following standards shall apply to an appointing authority's request for approval to pay a retention bonus:</p> <p>6. The employee's work history, including length of employment with the city, performance ratings, and disciplinary record; and</p> <p>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 evaluate period. Exceptions may be made for on-call employees.</p>	<p>9-101 <u>Retention Bonus</u></p> <p>D. The following standards shall apply to an appointing authority's request for approval to pay a retention bonus:</p> <p>6. The employee's work history, including length of employment with the city, performance ratings, and disciplinary record; and</p> <p>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 evaluate period. Exceptions may be made for on-call employees.</p>	<p>9-101 D.6.b.</p>	<p>This revision reflects the changes to the performance ratings proposed in Rule 13-31.A that include no longer having the rating "Unacceptable." This revision has no impact on the application of this rule.</p>
<p>13-23 <u>Performance Reviews</u></p> <p>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.</p> <p>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</p>	<p>13-23 <u>Performance Reviews</u></p> <p>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.</p> <p>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</p>	<p>13-23 A.2.</p>	<p>This revision reflects the changes to the performance ratings proposed in Rule 13-31.A that include naming the middle rating "Thriving" instead of "Successful." This revision has no impact on the application of this rule.</p>

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT																								
<p>have received with a “Successful” performance rating, based upon the approved merit increase percentage pool for the applicable merit cycle. (Revised May 22, 2018; Rule Revision Memo 42D)</p>	<p>have received with a “Successful” “Thriving” performance rating, based upon the approved merit increase percentage pool for the applicable merit cycle. (Revised May 22, 2018; Rule Revision Memo 42D)</p>																										
<p>13-31 Performance Ratings</p> <p>A. An eligible employee’s overall performance shall be evaluated in an employee’s review as one of the following:</p> <table border="1" data-bbox="105 814 488 1745"> <thead> <tr> <th>Rating</th> <th>Rating Name</th> <th>Definition</th> </tr> </thead> <tbody> <tr> <td>5</td> <td>Exceptional</td> <td>Consistently delivers outcomes rarely achieved by others. Always exceeds standards. This rating is a special commendation for the employee who offers truly outstanding overall performance.</td> </tr> <tr> <td>4</td> <td>Exceeds Expectations</td> <td>Consistently exceeds expected job requirements and frequently surpasses established goals. Delivers outcomes that are superior the majority of the time. This rating recognizes overall performance that consistently exceeds standards.</td> </tr> <tr> <td>3</td> <td>Successful</td> <td>Consistently achieves expected job requirements and established goals. Employee is a solid contributor to the success of the department and the City and County of Denver by completing expected outcomes.</td> </tr> </tbody> </table>	Rating	Rating Name	Definition	5	Exceptional	Consistently delivers outcomes rarely achieved by others. Always exceeds standards. This rating is a special commendation for the employee who offers truly outstanding overall performance.	4	Exceeds Expectations	Consistently exceeds expected job requirements and frequently surpasses established goals. Delivers outcomes that are superior the majority of the time. This rating recognizes overall performance that consistently exceeds standards.	3	Successful	Consistently achieves expected job requirements and established goals. Employee is a solid contributor to the success of the department and the City and County of Denver by completing expected outcomes.	<p>13-31 Performance Ratings</p> <p>A. An eligible employee’s overall performance shall be evaluated in an employee’s review as one of the following:</p> <table border="1" data-bbox="526 814 909 1917"> <thead> <tr> <th>Rating</th> <th>Rating Name</th> <th>Definition</th> </tr> </thead> <tbody> <tr> <td>5</td> <td>Exceptional</td> <td>Consistently delivers outcomes rarely achieved by others. Always exceeds standards. This rating is a special commendation for the employee who offers truly outstanding overall performance.</td> </tr> <tr> <td>43.</td> <td>Exceeds Expectations Excellent</td> <td>Consistently exceeds expected job requirements and frequently surpasses established goals performance standards and goals on a continuous basis. Delivers Frequently delivers outcomes that are superior the majority of the time. This rating recognizes overall reflects a level of performance that consistently exceeds standards is truly superb throughout the rating period.</td> </tr> <tr> <td>32.</td> <td>Successful Thriving</td> <td>Consistently achieves expected job requirements and established goals on a consistent basis. Employee is a solid contributor to the success of the department and the City and County of Denver by completing expected outcomes. Regularly delivers outcomes that are good or better than expected.</td> </tr> </tbody> </table>	Rating	Rating Name	Definition	5	Exceptional	Consistently delivers outcomes rarely achieved by others. Always exceeds standards. This rating is a special commendation for the employee who offers truly outstanding overall performance.	4 3.	Exceeds Expectations Excellent	Consistently exceeds expected job requirements and frequently surpasses established goals performance standards and goals on a continuous basis. Delivers Frequently delivers outcomes that are superior the majority of the time. This rating recognizes overall reflects a level of performance that consistently exceeds standards is truly superb throughout the rating period.	3 2.	Successful Thriving	Consistently achieves expected job requirements and established goals on a consistent basis. Employee is a solid contributor to the success of the department and the City and County of Denver by completing expected outcomes. Regularly delivers outcomes that are good or better than expected.	<p>13-31 A-B</p>	<p>The intention behind removing the word “overall” from Rule 13-31.A is that employees are not assigned a rating based on their overall performance. Rather, they are rated on each of their established performance goals and those cumulative ratings determine their overall rating. The intention behind the proposed revisions to the number of performance ratings utilized is primarily to simplify the ratings system by utilizing fewer ratings that are somewhat broader but also more clearly distinguishable from one another. The reduction in the number of ratings is also intended to increase the level of satisfaction among employees who perform their duties well by blending to a certain degree the three highest current ratings into the two highest new ratings, with a sufficient distinguishing gap in between to justify the distinctions.</p> <p>The intention behind the proposed revisions to the names of the top two ratings was to better describe those new ratings. The new “Excellent” rating is essentially a blend between a high “Exceeds Expectations” rating and an “Exceptional” rating. Similarly, the new “Thriving” rating is essentially a blend between a low “Exceeds Expectations” rating and a</p>
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CURRENT RULE			REVISED RULE			RULE NUMBER	REVISION INTENTION & IMPACT
2	Development Needed	Meets some, but not all established goals and job requirements. Outcomes are less than expected, with improvement required in one or more specific area(s) affecting their performance or behavior. Additionally, the employee may not have spent enough time in the position to demonstrate proficiency in order to meet established goals.			<i>This rating reflects a level of performance that is solid or in some respects even stronger than expected.</i>		<p>“Successful” rating. In contrast, “Development Needed” still aptly describes the new lowest rating, even though it is somewhat of a blend between that current rating and “Unsuccessful.”</p> <p>The intention behind the revisions to the proposed new rating definitions is not only to provide simple and apt definitions of each new rating, but also to: (1) provide more consistency in the wording of the definitions so they can more easily be compared and contrasted; and (2) make the definitions easier to apply when evaluating an employee’s performance with respect to each established performance goal, as it those ratings cumulatively determine an employee’s overall rating.</p> <p>The impact of these revisions will hopefully be positive for supervisors and employees alike. The ratings definitions are clearer, simpler to apply when evaluating performance, and should make it easier to distinguish one rating from another. It is also hoped that fewer ratings, two of which are a blend of the three highest current ratings, along with the new rating names and broader definitions, will result in many employees feeling more satisfied with their performance ratings.</p> <p>The intention behind removing this rule is that the “Unacceptable” rating is being eliminated and there is insufficient justification for making these procedures applicable to the newly defined “Development Needed” rating. Due process does not require that employees receive advance notice and a right to representation at a meeting to</p>
1	Unacceptable	Work does not meet job expectations in most, if not all, areas. This is considered a rating where significant improvements are immediately required in overall performance.	21.	Development Needed	Meets some, but not all established goals and job requirements. <i>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, with improvement required in one or more specific area(s) affecting their performance or behavior. This rating reflects a level of performance that needs improvement. Additionally, it may also reflect that the employee may has not have spent enough time in the position to demonstrate proficiency in order to meet established goals. develop the knowledge or proficiencies needed to meet established standards.</i>		
			4	Unacceptable	Work does not meet job expectations in most, if not all, areas. This is considered a rating where significant improvements are immediately required in overall performance.		
<p>B. <u>Unacceptable” Rating Procedure:</u></p> <p>a. If an eligible employee’s annual performance evaluation rating is expected to be “Unacceptable,” the department or agency shall advise the employee of the expected rating a reasonable time in advance, but not less than seven (7) calendar days prior to the date of the meeting scheduled to discuss the employee’s performance review, and shall allow representation at this meeting in accordance with the provisions of Rule 16</p> <p>CODE OF CONDUCT AND DISCIPLINE.</p> <p>b. The employee shall</p>			<p>B. <u>Unacceptable” Rating Procedure:</u></p> <p>a. If an eligible employee’s annual performance evaluation rating is expected to be “Unacceptable,” the department or agency shall advise the employee of the expected rating a reasonable time in</p>				

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<p>be provided with a PIP no later than ten (10) calendar days after the date of the meeting regarding the employee's "Unacceptable" rating.</p>	<p>advance, but not less than seven (7) calendar days prior to the date of the meeting scheduled to discuss the employee's performance review, and shall allow representation at this meeting in accordance with the provisions of Rule 16</p> <p>CODE OF CONDUCT AND DISCIPLINE.</p> <p>b. The employee shall be provided with a PIP no later than ten (10) calendar days after the date of the meeting regarding the employee's "Unacceptable" rating.</p>		<p>discuss an unfavorable performance evaluation, especially one that may still result in a merit increase.</p> <p>The impact of this revision is unlikely to be significant as the notice requirements were not mandated by due process and employees have the ability to file grievances of "Development Needed" ratings.</p>
<p>13-39 <u>Grievance and Appeals Relating to Performance Reviews</u></p> <p>A. An eligible employee may grieve any performance rating pursuant to Rule 18 DISPUTE RESOLUTION.</p> <p>B. An eligible employee may appeal a grievance of an "Unacceptable" rating in accordance with Rule 19 APPEALS. Appeals of grievances of other ratings are not permitted.</p> <p>C. An eligible employee may not grieve or appeal any other aspect of the performance review program.</p>	<p>13-39 <u>Grievance and Appeals Relating to Performance Reviews</u></p> <p>A. An eligible employee may grieve any performance rating pursuant to Rule 18 DISPUTE RESOLUTION.</p> <p>B. An eligible employee may appeal a grievance of an "Unacceptable" rating in accordance with Rule 19 APPEALS. Appeals of grievances of other ratings are not permitted. Grievances of performance ratings may not be appealed.</p> <p>C. An eligible employee may not grieve or appeal any other aspect of the performance review program.</p>	<p>13-39 B</p>	<p>The intention behind this revision is to eliminate the appeal right associated with a grievance of a rating that will no longer exist (and was rarely utilized). The new "Development Needed" rating is quite similar to the current rating of the same name, which can be grieved but not appealed. Moreover, it is anticipated that employees receiving overall "Development Needed" ratings will potentially still be eligible for small merit increases, whereas employees who receive "Unacceptable" ratings are ineligible for merit increases and automatically placed on PIPs. As such, there is no justification for allowing employees to appeal grievances of the new "Development Needed" rating.</p> <p>The impact of this revision is that employees who receive the lowest performance rating will not be allowed to appeal</p>

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
			grievances of those ratings. However, this impact should be minimal given that such appeals were rarely filed, and employees cannot currently appeal grievances of "Development Needed" ratings.
<p>16-26 <u>Employee Organizations and Representation</u></p> <p>D. Employees in supervisory or management positions shall not make any effort to obtain members or votes for a union or any employee association. 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:</p> <ol style="list-style-type: none"> 1. Contemplation of discipline meetings required under this Rule 16; 2. Contemplation of disqualification meetings required under Rule 14 SEPARATION OTHER THAN DISMISSAL; and 3. Meetings to discuss on "Unacceptable" rating required under Rule 13 PAY FOR PERFORMANCE. <p>G. <u>Designation of Representative</u></p> <ol style="list-style-type: none"> 1. Employees shall identify, in writing, to the person who signed the contemplation of discipline letter and the agency human resources 	<p>16-26 <u>Employee Organizations and Representation</u></p> <p>D. Employees in supervisory or management positions shall not make any effort to obtain members or votes for a union or any employee association. 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:</p> <ol style="list-style-type: none"> 1. Contemplation of discipline meetings required under this Rule 16; and 2. Contemplation of disqualification meetings required under Rule 14 SEPARATION OTHER THAN DISMISSAL; and 3. Meetings to discuss on "Unacceptable" rating required under Rule 13 PAY FOR PERFORMANCE. <p>G. <u>Designation of Representative</u></p> <ol style="list-style-type: none"> 1. Employees shall identify, in writing, to the person who signed the contemplation of discipline letter and the agency human resources representative, agents 	<p>16-26 D.3 & G.1</p>	<p>The intention behind the revisions to Rule 16-26 is to eliminate the right of representation at meetings to discuss an "Unacceptable" rating, consistent with the proposed revision to Rule 13-31.B, the purpose and impact of which is described above.</p>

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
<p>representative, agents to represent them in a contemplation of discipline meeting, a contemplation of disqualification meeting, a meeting to discuss an “Unacceptable” rating, or in presenting a grievance or appeal.</p>	<p>to represent them in a contemplation of discipline meeting, a contemplation of disqualification meeting, a meeting to discuss an “Unacceptable” rating, or in presenting a grievance or appeal.</p>		
<p>16-28 <u>Grounds for Discipline</u></p> <p>G. 1. 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 May 12, 2017; Rule Revision Memo 26D)</p> <p>2. An employee who receives an “Unacceptable” performance rating and fails to correct his or her performance in the subsequent PIP (or PIPs), is considered to have been given an adequate opportunity to correct his or her behavior and may be dismissed without his or her appointing authority first being required to resort to progressive discipline. (Revised May 12, 2017; Rule Revision Memo 26D)</p>	<p>16-28 <u>Grounds for Discipline</u></p> <p>G. 4. 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 May 12, 2017; Rule Revision Memo 26D)</p> <p>2. An employee who receives an “Unacceptable” performance rating and fails to correct his or her performance in the subsequent PIP (or PIPs), is considered to have been given an adequate opportunity to correct his or her behavior and may be dismissed without his or her appointing authority first being required to resort to progressive discipline. (Revised May 12, 2017; Rule Revision Memo 26D)</p>	<p>16-28 G.2</p>	<p>The intention behind this revision is to eliminate a disciplinary rule that allowed appointing authorities to dismiss employees who received “Unacceptable” ratings and failed a PIP without considering progressive discipline. Because “Unacceptable” ratings will no longer exist under the proposed revisions to Rule 13-32.A., and the new “Development Needed” rating will not be a comparable substitute, this rule is no longer needed.</p> <p>The impact of this revision is minimal. Appointing authorities will continue to be expected to consider progressive discipline prior to dismissing an employee who receives “Development Needed” ratings and fails a PIP.</p>

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
<p>19-20 <u>Actions Subject to Appeal</u></p> <p>A.</p> <p>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:</p> <p>a. Dismissal;</p> <p>b. Suspension or temporary reduction in pay;</p> <p>c. Involuntary demotion with an attendant loss of pay;</p> <p>d. Disqualification;</p> <p>e. Lay-off, or failure to re-instate (as may be required by Rule 3 RECRUITMENT); or</p> <p>f. A retaliatory adverse employment action, as defined by the City's "Whistleblower Protection" ordinance (attached as an appendix).</p> <p>i. For any appeal filed pursuant to the "Whistleblower Protection" ordinance, the employee must</p>	<p>19-20 <u>Actions Subject to Appeal</u></p> <p>A. <u>Direct Appeals</u></p> <p>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:</p> <p>a. Dismissal;</p> <p>b. Suspension or temporary reduction in pay;</p> <p>c. Involuntary demotion with an attendant loss of pay;</p> <p>d. Disqualification;</p> <p>e. Lay-off, or failure to re-instate (as may be required by Rule 3 RECRUITMENT); or</p> <p>f. A retaliatory adverse employment action, as defined by the City's "Whistleblower Protection" ordinance (attached as an appendix).</p> <p>i. For any appeal filed pursuant to the "Whistleblower Protection" ordinance, the employee must</p>	<p>19-20.A., B.1.b & 4.a</p>	<p>The intention behind the addition of the title for Rule 19-20.A is that it is believed to have been inadvertently left off in 2018 when the rule was last revised.</p> <p>The intention and impact of the revisions to Rule 19-20.B has been addressed in correlation with the revisions to Rule 13-39.B, above.</p>

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<p>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.</p> <p>g. No other action may be directly appealed.</p> <p>B. <u>Appeals of Grievances</u></p> <p>1. An employee who holds career status may only appeal a grievance response to the Hearing Office:</p> <p>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;</p> <p>b. i. Of a performance review with an overall rating of "Unacceptable."</p> <p>ii. The only basis for reversal of an</p>	<p>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.</p> <p>g. No other action may be directly appealed.</p> <p>B. <u>Appeals of Grievances</u></p> <p>1. An employee who holds career status may only appeal a grievance response to the Hearing Office:</p> <p>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;</p> <p>b. i. Of a performance review with an overall rating of "Unacceptable."</p> <p>ii. The only basis for reversal of an "Unacceptable"</p>		

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<p>“Unacceptable” rating shall be an express finding that the rating was arbitrary, capricious or without rational basis or foundation. The employee bears the burden of proof on this issue.</p> <p>2. An employee who holds career status may also appeal a grievance:</p> <p>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</p> <p>b. In which the department or agency failed to respond as required by Rule 18 DISPUTE RESOLUTION.</p> <p>3. The grievance must have been in conformance with and processed pursuant to the requirements of Rule 18 DISPUTE RESOLUTION.</p> <p>4. Notwithstanding the above provisions, an employee in the Career Service cannot appeal a grievance of:</p>	<p>rating shall be an express finding that the rating was arbitrary, capricious, or without rational basis or foundation. The employee bears the burden of proof of this issue.</p> <p>2. An employee who holds career status may also appeal a grievance:</p> <p>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</p> <p>b. In which the department or agency failed to respond as required by Rule 18 DISPUTE RESOLUTION.</p> <p>3. The grievance must have been in conformance with and processed pursuant to the requirements of Rule 18 DISPUTE RESOLUTION.</p> <p>4. Notwithstanding the above provisions, an employee in the Career Service cannot appeal a grievance of:</p> <p>a. Any performance review rating besides an “Unacceptable,” or</p>		

CURRENT RULE	REVISED RULE	RULE NUMBER	REVISION INTENTION & IMPACT
a. Any performance review rating besides an "Unacceptable," or any other aspect of the performance review program;	any other aspect of the performance review program;		

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

9-69 911 Communications Training Officer Stipend
(Revised October 19, 2018; Rule Revision Memo45D)

- 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 "~~Successful~~" ***“Thriving”*** or higher in the employee’s most recent performance evaluation and continues to receive performance evaluations of "~~Successful~~" ***“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.
- C. Individuals enrolled in the CTO program will receive \$250.00 per month that they are enrolled, pro-rated for partial month enrollments, not to exceed \$3,000.00 annually.
- D. The appointing authority retains the right to revoke eligibility for the stipend for any business-related reason, at any time.

Section 9-101 Retention Bonus

(Revised June 16, 2022; Rule Revision Memo 78D)

- A. This rule is intended to temporarily assist agencies with staffing shortages occurring as a result of the COVID-19 pandemic and the “Great Resignation” which may cause a decline in the provision of essential city services and, as such, will only remain in effect until December 31, 2023.
- B. 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, but in no event shall the specified retention period extend past December 31, 2023.
- C. The payment of any retention bonus must be justified in writing and submitted by the appointing authority to the OHR Executive Director for approval.
- D. 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.
- E. 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.
- F. 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.
- G. 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, but in no event shall the specified retention period extend past December 31, 2023. 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.

**RULE 13
PAY FOR PERFORMANCE**

(Revised October 24, 2022; Rule Revision Memo 80D)

13-23 Performance Reviews

- 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 “Successful” **“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 October 17, 2019; Rule Revision Memo 56D)

- A. An eligible employee’s ~~overall~~ performance shall be evaluated in an employee’s review

as one of the following:

Rating	Rating Name	Definition
5	Exceptional	Consistently delivers outcomes rarely achieved by others. Always exceeds standards. This rating is a special commendation for the employee who offers truly outstanding overall performance.
4.3	Exceeds Expectations Excellent	Consistently Significantly exceeds expected job requirements and frequently surpasses established goals performance standards and goals on a continuous basis . Delivers Frequently delivers outcomes that are superior the majority of the time. This rating recognizes overall reflects a level of performance that consistently exceeds standards is truly superb throughout the rating period .
3.2	Successful Thriving	Consistently Effectively achieves expected job requirements performance standards and established goals on a consistent basis . Employee is a solid contributor to the success of the department and the City and County of Denver by completing expected outcomes. Regularly delivers outcomes that are good or better than expected. This rating reflects a level of performance that is solid or in some respects even stronger than expected.
2.1	Development Needed	Meets some, but not all established goals and job requirements. 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 , with improvement required in one or more specific area(s) affecting their performance or behavior. - This rating reflects a level of performance that needs improvement. Additionally, It may also reflect that the employee may has not have spent enough time in the position to demonstrate proficiency in order to meet established goals. develop the knowledge or proficiencies needed to meet established standards.
4	Unacceptable	Work does not meet job expectations in most, if not all, areas. This is considered a rating where significant improvements are immediately required in overall performance.

B. "Unacceptable" Rating Procedure:

1. If an eligible employee's annual performance evaluation rating is expected to be "Unacceptable," the department or agency shall advise the employee of the expected rating a reasonable time in advance, but not less than seven (7) calendar days prior to the date of the meeting scheduled to discuss the employee's performance review, and shall allow representation at this meeting in accordance with the provisions of Rule 16 **CODE OF CONDUCT AND DISCIPLINE**.
2. The employee shall be provided with a PIP no later than ten (10) calendar days after the date of the meeting regarding the employee's "Unacceptable" rating.

13-39 Grievances and Appeals Relating to Performance Reviews

- A. An eligible employee may grieve any performance rating pursuant to Rule 18 **DISPUTE**

RESOLUTION.

- B. ~~An eligible employee may appeal a grievance of an “Unacceptable” rating in accordance with Rule 19 APPEALS. Appeals of grievances of other ratings are not permitted.~~
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.

APPENDIX 13.A

2022 PERFORMANCE REVIEW SCHEDULE

DUE DATE	TASK
December 16, 2022	Deadline for performance evaluations for the 2022 calendar year to be completed by supervisors, second level managers, and agency approvers.
January 13, 2023	Deadline for appointing authorities to submit merit increase and merit payment recommendations to OHR. All eligible employees must be accounted for in these recommendations. The percent increase for all eligible employees in a department or agency should average 4.00% for merit increases and merit payments delivered in 2023.
February 17, 2023	Merit increases and merit payments appear on employee paychecks, as well as retroactive merit increases and merit payments for the period from January 1 st until February 11 th .

This Appendix is provided for informational purposes and is not considered a part of the Rules.

16-26 Employee Organizations and Representation
(Re-numbered June 22, 2018; Rule Revision Memo 43D)

- 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; ~~and~~
 3. ~~Meetings to discuss an "Unacceptable" rating required under Rule 13~~ **PAY FOR PERFORMANCE.** (Revised May 12, 2017; Rule Revision Memo 26D)

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, ~~a meeting to discuss an "Unacceptable" rating,~~ or in presenting a grievance or appeal. (Revised May 12, 2017; Rule Revision Memo 26D)
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.

16-28 Grounds for Discipline
(Re-numbered June 22, 2018; Rule Revision Memo 43D)

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. 4.——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 May 12, 2017; Rule Revision Memo 26D)

~~2.——Any employee who receives an "Unacceptable" performance rating and fails to correct his or her performance in the subsequent PIP (or PIPs), is considered to have been given an adequate opportunity to correct his or her behavior and may be dismissed without his or her appointing authority first being required to resort to progressive discipline. (Revised May 12, 2017; Rule Revision Memo 26D)~~
- 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.
- I. Failure to maintain satisfactory working relationships with co-workers and other individuals the employee interacts with as part of his or her job.
- J. Being charged with or convicted of a crime, or entering a plea of guilty or nolo contendere to a crime. Before imposing discipline under this subsection, the department or agency shall follow the guidelines contained in subsection 16-23.
- K. Failure to report charges of, pleas to, or convictions of crimes as required by this Rule 16.
- L. Discrimination or harassment as defined in this Rule 16. This includes making derogatory statements based on race, color, religion, national origin, sex, sexual orientation, gender identity and expression, disability, genetic information, military status, age, marital status, political affiliation, or any other status protected under federal, state, and/or local law. This prohibited conduct need not rise to the level of a violation of any relevant local, state or federal law before an employee may be disciplined and the imposition of such discipline does not constitute an admission that the City violated any law. (Revised September 21, 2017; Rule Revision Memo 28D)
- M. Unauthorized absence from work; or abuse of paid time off, sick leave, or other types of leave; or violation of any rules relating to any forms of leave.
- N. Unauthorized deviation from scheduled shift including reporting to work after the scheduled start time of the shift, leaving work before the end time of the shift, or working unauthorized overtime.
- O. Failure to use safety devices or failure to observe safety regulations.

- P. Engaging in a strike, sabotage, or work slowdown.
- Q. Divulging confidential or otherwise sensitive information to unauthorized individuals.
- R. Conduct which violates the Career Service Rules, the City Charter, the Denver Revised Municipal Code, Executive Orders, written departmental or agency regulations, policies or rules, or any other applicable legal authority. When citing this subsection, a department or agency must cite the specific regulation, policy or rule the employee has violated.
- S. Refusal to cooperate, including refusing to provide requested information and materials relevant to the investigation.
- T. Conduct which is or could foreseeably:
 - 1. Be prejudicial to the good order and effectiveness of the department or agency;
 - 2. Bring disrepute on or compromises the integrity of the City; or
 - 3. Be unbecoming of a City employee.

Section 19-20 Actions Subject to Appeal

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;
 - b. ~~i. Of a performance review with an overall rating of "Unacceptable."~~
 - ii. ~~The only basis for reversal of an "Unacceptable" rating shall be an express finding that the rating was arbitrary, capricious or without rational basis or foundation. The employee bears the burden of proof on this issue.~~
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 ~~besides an "Unacceptable,"~~ 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.