

## **Chapter 1 Organization, Responsibilities, Ethics, Payroll Deduction, And Definitions**

Authority for rules promulgated in this chapter is found in Colo. Const., art. XII, Sections 13, 14 and 15, §§24-50-101, 103, 104(8), 112.5, 116, 117, 124, 128, 129, 130, 132, 145, 24-2-103, 24-6-402, 24-72-201, and 24-18-101 through 205, C.R.S. Board rules are identified by cites beginning with "Board Rule".

### **Definitions**

**Board Rule 1-32.1. Certified.** The status of an employee who has successfully completed a probationary period or a trial service period. (12/1/10)

**1-38.1. Conditional or Provisional Appointments.** A temporary appointment to a permanent position approved by the Director. A conditional appointment applies to a qualified certified employee who temporarily promotes into a permanent vacancy for which no eligible list exists. A provisional appointment applies to a qualified person outside of the state personnel system who is temporarily appointed to a permanent vacancy for which no eligible list exists. (12/1/10)

**Board Rule 1-38.2. Conduct of competitive testing.** Refers to the competitive assessment process, including all examination-related activities, processes, or functions that are completed from the time the qualified applicant pool is identified to the creation of the ranked eligible list. (12/1/10)

**1-38.3. Content of competitive testing.** Refers to the subject matter of the examination. Scores and ranks are outcomes of the competitive testing process and are not considered as conduct or content of an examination. (12/1/10)

**Board Rule 1-40.1. Departmental Reemployment List.** A list which is established on a departmental basis, as listed in the "Separation" chapter, containing the names of certified employees who meet one of the following conditions: (a) separated from employment due to layoff; (b) voluntarily demoted in lieu of layoff or as a result of a position's reallocation; and/or (c) former position no longer exists upon return from an exempt position accepted at the request of the governor or other elected or appointed official and the employee is laid off. (12/1/10)

**1-53.1. Job Qualifications.** Includes the minimum qualifications for a vacancy's class; any special qualifications, including but not limited to any required education or experience and any licensure or certification requirements; and/or any pre- or post-employment screening requirements. (12/1/10)

**Board Rule 1-55.1. Non-disciplinary Demotion.** An appointment which is a voluntary change to a class with a lower pay range maximum. (12/1/10)

**Board Rule 1-56.1. Open Competitive List.** A list containing the names of individuals who have successfully completed any applicable competitive assessment process resulting from a job announcement that was not restricted to current state employees. The ranking of individuals on such a list shall be the combination of the final converted passing score from any applicable competitive assessment process plus any applicable veteran's preference points. (12/1/10)

**Board Rule 1-62.1. Probationary.** An applicant who is not a current certified employee and who has been selected from a referral list for a permanent position but has not yet been certified to the class for that position. (12/1/10)

**Board Rule 1-62.2. Promotional List.** A list containing the names of individuals who have successfully completed any applicable competitive assessment process resulting from a job announcement restricted to current state employees or former state employees separated from employment due to layoff. The ranking of individuals on such a list shall be the final converted passing score from any applicable competitive assessment process. (12/1/10)

**Board Rule 1-62.3. Qualified Applicant.** An individual who submits a timely and sufficient application in response to an announcement and meets the job qualifications for the vacancy. (12/1/10)

- Board Rule 1-62.4. **Qualified Applicant Pool.** All individuals who are eligible to be included in any applicable competitive assessment process because each of them satisfies the definition of qualified applicant for the respective position or class. (12/1/10)
- Board Rule 1-64.1. **Referral List.** A rank-ordered list provided to the appointing authority of the three highest ranking qualified applicants who have successfully completed any applicable competitive assessment process and who are to be interviewed by the appointing authority for consideration for a vacancy or vacancies. (12/1/10)
- Board Rule 1-64.2. **Reinstatement.** An appointment of a former or current employee either to a class in which the person was certified and resigned or voluntarily demoted in good standing or to a related class at the same or lower pay range maximum. (12/1/10)
- 1-73.1. **Substitute Appointment.** A temporary appointment that is made to perform the duties of a filled position during a leave or for training purposes. (12/1/10)
- Board Rule 1-76.1. **Transfer.** An appointment of a qualified and current employee to a different position in the same class or to a class with the same pay range maximum. (12/1/10)
- Board Rule 1-77.1. **Trial Service.** When a current certified employee, reemployment applicant, or, at the discretion of an appointing authority, a reinstatement applicant promotes or transfers to a different class with the same pay range maximum and is not yet certified to the class into which s/he has promoted or transferred. (12/1/10)

## **Chapter 4 Employment and Status**

Authority for the rules promulgated in this chapter is found in Colo. Const. art. XII, Sections 13, 14 and 15, and §§24-50-109.5, 112.5, 114, 132, 136 and 137, C.R.S. Board rules are identified by cites beginning with "Board Rule". Definitions for many of the terms utilized in this chapter may be found in Chapter 1 "Organization, Responsibilities, Ethics, Payroll Deduction, and Definitions", 4 CCR 801.

### **General Principles**

Board Rule 4-1. State residents shall have an equal opportunity for entry into the state personnel system through fair and open competition. Selection and appointment to positions within the state personnel system shall be made according to merit and fitness, based upon the quality of performance and job-related ability as ascertained by competitive tests of competence. The selection process utilized to fill any vacancy shall uphold the protections of Colorado's constitutional merit based personnel system. (12/1/10)

Board Rule 4-2. All applicants must meet minimum and special qualifications for the vacancy in order to be included in the competitive testing process, referred for an interview or appointed to a position. Any required job qualifications shall be consistent with those minimum qualifications established by the State Personnel Director for classified positions within the state personnel system. (12/1/10)

4-3. Required experience, education, licensure and/or certification may not be changed without advance written approval by the State Personnel Director. (12/1/10)

Board Rule 4-4. Appointing authorities shall consult with the human resource personnel for their department throughout the selection process and comply with any agreement regarding delegation of selection functions entered into between the department and the Director. (12/1/10)

Board Rule 4-5. All applicants who are eliminated at any stage in the selection process may appeal or request a review in accordance with federal and state law or the "Dispute Resolution" chapter. Applicants for all vacancies shall be notified in writing of any change in their application status throughout the selection process up to and including notification of their probationary, trial service or certified status. Such notification shall also include notice of any appeal rights they may have as a result of that change in application status; the time frame for such an appeal; the address for filing the appeal; and the availability of any standard appeal form. (12/1/10)

Board Rule 4-6. Persons with disabilities, in accordance with federal and state law, may request reasonable accommodation throughout the selection process. (12/1/10)

### **Job Announcement**

Board Rule 4-7. Job announcements must be posted in such a manner as to give potential applicants notice of a vacancy; a reasonable opportunity to apply for the vacancy; notice of the required application documentation; and a description of the position. The appointing authority shall not utilize any method of appointment not disclosed in the job announcement. (12/1/10)

4-8. All job announcements must be posted for a reasonable amount of time and in locations where potential applicants might reasonably expect to find them and posted electronically in a manner prescribed by the State Personnel Director. Announcements shall specify the following:

- A. The class to which the vacancy is classified within the state personnel system; the pay range or anticipated hiring pay rate for that classification; the working location for the vacancy; and the closing date for accepting applications for the vacancy;
- B. The minimum qualifications for the vacancy;
- C. The nature of required experience and/or education for the vacancy;

- D. That experience may substitute for the required education, except where such education is required by law or accreditation standards. The Department may specify the nature of experience that substitutes for education;
- E. Any additional special qualifications for the vacancy;
- F. Any preferred qualifications for the vacancy;
- G. Any conditions of employment, including physical requirements or background check;
- H. The documentation which must be submitted in order for the application to be reviewed and, if any forms must be completed, where those forms may be obtained and;
- I. The address to which the application must be submitted. (12/1/10)

Board Rule 4-9. A department may request that the Board grant a residency waiver when the department can show:

- A. the position(s) involved requires special education or training; or
- B. the position(s) involved requires special professional or technical qualifications; and
- C. there is an insufficient instate applicant pool; and
- D. it is not feasible to train and hire from within.

If the Colorado Unemployment Index, or its equivalent, reflects an unemployment rate of less than 3%, and a department's turnover rate for employees within the class series subject to the waiver request is greater than 10%, a presumption in favor of a residency waiver for the position(s) shall exist.

The Board may require that a department provide written reports to the Board regarding the status of recruitment while subject to a residency waiver. (12/1/10)

### **Qualification Review**

Board Rule 4-10. All qualified applicants shall be included in the qualified applicant pool and shall be provided a reasonable opportunity to participate in any applicable competitive testing. (12/1/10)

### **Testing and Scoring of Competitive Examinations and Assessments**

Board Rule 4-11. The assessment process is considered to be competitive if a reasonable opportunity was provided to potentially qualified persons to apply and compete against the same job-related standards. Any testing conducted, must be related to the requirements of the position. Examinations must meet professionally accepted standards for assessments of qualifications, competencies, and job fit. (12/1/10)

4-12. Background investigations and physical or psychological examinations are allowed when appropriate as determined by the job analysis and state or federal guidelines. (12/1/10)

4-13. Examinations shall consist of professionally accepted assessments of job-related qualifications, competencies, knowledge, skills, abilities, and job fit, including but not limited to structured interviews, oral examinations, written objective tests, written narrative tests, performance tests, training and/or experience evaluations, and physical capacity tests. Assessment tools and/or examinations shall be developed, administered, and scored in compliance with professional guidelines and state and federal law. If multiple components are used to assess qualifications, the applicant may be required to pass one step before proceeding to the next. All examination materials and scores are confidential except as provided by the Colorado Open Records Act. (12/1/10)

Board Rule 4-14. All examinations and assessments are subject to review and approval by the State Personnel Director. (12/1/10)

Board Rule 4-15. The appointing authority shall have the discretion to consider qualified individuals who meet the definition of transfer, non-disciplinary demotion, and reinstatement by interviewing them rather than requiring them to participate in any applicable competitive assessment process. The following conditions shall apply to such decisions:

- A. The appointing authority shall determine prior to assessment whether to interview individuals eligible for transfer, reinstatement or voluntary demotion, or require each such group of individuals to participate in any applicable competitive assessment process.
- B. The appointing authority shall not deviate from this determination during the selection process.
- C. The agency human resources office shall not inform the appointing authority of the names of any of the applicants until this determination has been made and all competitive assessment materials have been prepared. (12/1/10)

Board Rule 4-16. If a competitive assessment process has been initiated and there are more than three qualified applicants subject to examination, then:

- A. The examination portion of the process must be completed;
- B. The examinations scored in accordance with professional standards;
- C. The applicants ranked accordingly; and
- D. No transfer, non-disciplinary demotion or reinstatement appointment may be made, unless it is in conflict with federal or state law not to do so, until after the referral list has been submitted to the appointing authority. (12/1/10)

Board Rule 4-17. Examinations do not have to be scored if:

- A. The departmental human resources director determines that the testing process has been compromised and notifies all qualified applicants of that determination, the basis for the determination and the next step in the selection process;
- B. Permission to fill the position has been withdrawn; or
- C. For examinations of transfer, non-disciplinary demotion or reinstatement candidates only and where assessment materials have been included in the application materials, if an appointing authority determines after the qualification review not to require one of those groups to participate in the competitive assessment process. (12/1/10)

Board Rule 4-18. Applicants may appeal or request a review of the content or conduct of an examination in accordance with federal and state law or the "Dispute Resolution" chapter. (12/1/10)

Board Rule 4-19. Any person who is employed outside the state personnel system must successfully complete the selection process before being placed in a position in the state personnel system. Treatment of the employee is subject to the provisions of §24-50-136, C.R.S. This includes political subdivisions of the state with similar merit systems that have a formal arrangement with the Board. (12/1/10)

## Employment Lists

Board Rule 4-20. If filling a vacancy from an employment list, employment lists must be used in the following order of priority: departmental reemployment, promotional, then open-competitive. (12/1/10)

Board Rule 4-21. An eligible list shall be considered established at the time when any and all applicable competitive testing is completed. (12/1/10)

Board Rule 4-22. No eligible list shall be established if: (a) a departmental reemployment list with a qualified and willing individual exists for the class of the position in question, or (b) a current eligible list of equal or higher priority exists for the position in question. (12/1/10)

Board Rule 4-23. Employees on a departmental reemployment list may limit their availability to specific locations and work schedules. Departmental reemployment lists last for one year. (12/1/10)

4-24. The duration of an open competitive or promotional eligible list shall be six months unless extended as follows:

A. The Director shall have the discretion to extend a current eligible list.

B. The Director shall have the discretion to resurrect an expired eligible list within one year of the initial expiration date of the list.

C. The Director shall have the discretion to appropriate eligible lists for identical or highly similar positions justified through competent job analyses. (12/1/10)

4-25. Cancellation or expiration of a list does not affect the legal rights of employees on military leave. (12/1/10)

Board Rule 4-26. If the competitive testing process results in fewer than three applicants on an eligible list, the list may be supplemented by additional applicants obtained through further posting and competitive testing for the vacancy, as follows:

A. If none of the qualifications for the vacancy are changed then the same test must be administered and the pool of scores from both postings must then be integrated and ranked.

B. If any qualifications are changed, a new recruitment will be initiated. (12/1/10)

Board Rule 4-27. Addition of names and adjustment of rankings due to open continuous recruitment shall not affect prior appointments or referrals. (12/1/10)

Board Rule 4-28. Persons may be removed from employment lists for consideration by an appointing authority or agency HR office for reasons listed below:

A. Reasons for mandatory removal from all employment lists or from consideration for all vacancies:

1. attempts to use political pressure or bribery;
2. unauthorized access to examination information; or
3. false statements or attempts to practice fraud and deception during the application process.

B. Reasons for mandatory removal from one employment list or from consideration for the relevant vacancy:

1. failure to meet the minimum qualifications; or

2. existence of a written agreement between the individual and the department that the individual will not seek or accept work from the department.
- C. Reasons for discretionary removal from one or more employment lists or from consideration for relevant vacancies:
1. violation of federal or state law or regulations that affect the ability to perform the job;
  2. no longer interested in or available for employment with the department or the state personnel system;
  3. failure to meet the conditions of employment such as physical requirements, background check, or others as set forth in the job announcement;
  4. failure to respond to a referral within the specified time frame as communicated to the individuals referred, or to complete any portion of the interview process;
  5. failure to be appointed after at least three referrals and interviews for vacancies with the same appointing authority, who is removing the person from the employment list, within an 18 month period;
  6. documented failure to demonstrate proficiency in a required job-related competency set forth in the job announcement;
  7. a written record of unsatisfactory performance indicating an inability to perform in an area directly related to the job;
  8. appointment to a position in the class for which a list was established; or
  9. refusal of an appointment or condition(s) of employment previously indicated as acceptable. (12/1/10)

Board Rule 4-29. A person who has been removed from an employment list may appeal or request a review in accordance with federal and state law or the "Dispute Resolution" chapter. (12/1/10)

#### **Referrals**

Board Rule 4-30. If a departmental reemployment list exists, all those qualified are notified and referred in alphabetical order and no other employment lists are used. (12/1/10)

Board Rule 4-31. In the event of a tie for any of the three highest-ranking scores, the referral list shall be comprised of only the three highest scoring individuals, plus any individuals tying with those individuals. If a competitive assessment is not conducted because there are three or fewer qualified applicants, the referral list shall be comprised of those applicants. (12/1/10)

Board Rule 4-32. In the case of filling multiple vacancies within the same class, no more than the applicants with the three highest-ranking scores may be considered for each position as it is filled. If an appointing authority decides to fill multiple vacancies simultaneously, then the following conditions must be met

- A. In those situations in which the appointing authority would be left with fewer than three applicants to consider for any additional position, the applicant with the next ranking score, plus any individuals tying with that individuals, will be referred to the appointing authority for each additional position;
- B. The appointing authority shall determine the number of positions to be filled prior to the compilation of the referral list for the multiple vacancies by the department's human resources personnel; and
- C. If the appointing authority decides to fill a lesser number of positions than determined prior to compilation of the referral list, then all appointments must be made in accordance with the above provisions. (12/1/10)

Board Rule 4-33. Upon receipt of a request to fill a vacancy, a referral will be made from the appropriate eligible lists to the appointing authority. All those referred must be notified of any contact information for the interview. (12/1/10)

Board Rule 4-34. If a departmental reemployment list does not exist, the appointing authority has the discretion to consider transfers, non-disciplinary demotions, reinstatements and other departments' reemployment lists before or along with promotional or open-competitive lists. (12/1/10)

### **Referral List Interview**

Board Rule 4-35. Appointing authorities or their designees shall interview or make a reasonable attempt to interview all applicants on the referral list and applicants who are transfers, non-disciplinary demotions and reinstatements in situations where the appointing authority has decided not to require such applicants to participate in the competitive testing process. Such interviews must be in compliance with state and federal law. (12/1/10)

Board Rule 4-36. Any additional evaluation or assessment conducted after the referral must be related to the job. (12/1/10)

### **Appointment**

Board Rule 4-37. Appointing authorities may fill vacancies by transfer, non-disciplinary demotion or reinstatement, temporary appointment, or appointment from an employment list. (12/1/10)

Board Rule 4-38. An employee or an appointing authority may initiate a transfer. When the appointing authority(s) initiates the transfer within the same department and the employee refuses it, the employee is deemed to have resigned. If the transfer is beyond a 25 mile radius of the employee's current work location, is longer than six months, and was not a condition of employment, the employee's name is placed on the reemployment list. (12/1/10)

Board Rule 4-39. A person may be reinstated to a related class with the same or lower pay range maximum than the previously certified class. (12/1/10)

4-40. Provisional appointments may be made only if the position cannot be filled conditionally. (12/1/10)

### **Employee Status**

Board Rule 4-41. Probationary service applies to appointments to permanent positions of:

- A. Employees who have not been previously employed within the state personnel system;
- B. At the discretion of the appointing authority, any reinstated former certified employees. (12/1/10)

Board Rule 4-42. The probationary service period must not exceed 12 working months except as provided in the "Time Off" chapter or when there is a selection appeal pending. If the probationary employee separates from employment for any period of time, a new service date is required based on the date of rehire. (12/1/10)

- A. Probationary employees do not have a right to a pre-disciplinary meeting, to a mandatory hearing to review discipline for unsatisfactory performance, to be granted a period of time to improve performance, to be placed on a reemployment list, or to the privilege of reinstatement. However, probationary employees may petition the Board for a discretionary hearing on non-disciplinary matters.

Board Rule 4-43. Trial Service applies to appointments to permanent positions of:

- A. At the discretion of the appointing authority, a current certified employee who voluntarily transfers to a position within the same class;
- B. At the discretion of the appointing authority, a current certified employee or reemployment applicant who transfers to a position in a different class with the same pay range maximum;

- C. A current certified employee or a reemployment applicant who promotes; and
- D. Any reinstated applicant unless the appointing authority requires a probationary period. (12/1/10)

Board Rule 4-44. The trial service period must not exceed six working months, except as provided in the "Time Off" chapter or when there is a selection appeal pending. An employee who fails to perform satisfactorily during trial service shall revert to an existing vacancy in the previously certified class in the current department with no right to a hearing or, if there is no existing vacancy in the previously certified class in the current department, shall be accorded any retention rights to which the employee may be entitled under § 24-50-124, C.R.S. and/or Board Rule. The appointing authority has discretion to administer corrective or disciplinary action instead of reversion. (12/1/10)

Board Rule 4-45. The following applicants or employees retain their certified status when appointed to a new class or position:

- A. A current certified employee who demotes;
- B. A reemployment applicant who is appointed to a position within the same class;
- C. A current certified employee who voluntarily transfers to a position within the same class remains certified unless the appointing authority requires a trial service period
- D. A current certified employee or a reemployment applicant who voluntarily transfers to a different class with the same pay range maximum remains certified unless the appointing authority requires a trial service period;
- E. A current certified employee who involuntarily transfers to a position within the same class or a position within a different class with the same pay range maximum. (12/1/10)

Board Rule 4-46. Early certification is not allowed if a selection appeal is pending. (12/1/10)

Board Rule 4-47. When accepting a state position outside the state personnel system at the request of an elected or appointed state official, a certified employee is subject to the provisions of §24-50-137, C.R.S. (12/1/10)

### **Temporary Status**

4-48. A temporary appointment refers to a qualified person who is appointed to a position or positions for a period not to exceed six months in any 12-month period. The 6-month limitation shall be inclusive of all temporary appointments and departments. Temporary appointments include appointments to temporary positions, conditional, provisional and substitute appointments. (12/1/10)

4-49. All temporary positions shall be in the Temporary Aide class. Temporary employees are employed at will and do not have the rights and benefits provided to permanent employees, except those mandated by law and pay range minimum. Effective December 31, 1998, no credit is provided for a temporary position when an employee accepts a permanent position in the same class without a break in service.

- A. When the services for the relevant position are permanent and full-time, the position shall not be filled through a succession of temporary appointments.
- B. When services are seasonal or annually recurring, department heads should consider creating a permanent part-time position, including analysis of potential partnering with other departments in the same geographic location, as provided in the "Personal Services Contracts" chapter. However, either a permanent part-time or temporary position may be used. (12/1/10)

**Board Rule 4-50.** A person in conditional status does not have a break in service as a result of having a conditional appointment. If the employee is subsequently appointed, to the position to which s/he was conditionally appointed, from a list, the trial service period begins on the date of the conditional appointment. If not subsequently appointed to the position, the employee reverts to an existing vacancy in the certified class in the current department. If no vacancy exists, layoff provisions apply. (12/1/10)

**Board Rule 4-51.** If a person with provisional status is subsequently appointed, to the position to which s/he was provisionally appointed, from a list, the probationary period begins on the date of the appointment from the referral list. Provisional employees do not have the rights and benefits provided to classified employees within the state personnel system, except those mandated by law and pay range minimum. (12/1/10)

**Board Rule 4-52.** A substitute appointment may only be made to perform the duties of a filled position during a leave or for training purposes. This appointment shall not exceed six months unless transfer, demotion, or examination fills it. Layoff provisions do not apply and a certified employee is returned to a position in the former class. (12/1/10)