

## APPENDIX A SHERIFF'S DEPARTMENT CIVIL SERVICE RULES AND REGULATIONS\*

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**\*Editor's note:** Printed herein is the sheriff's department civil service rules and regulations, as revised and adopted by Ord. No. 2005-964, adopted May 17, 2005. Prior to revision, the sheriff's department civil service rules and regulations derived from rules and regulations adopted by the civil service commission in April, 1982. Amendments to the rules and regulations are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the revised rules and regulations as adopted by Ord. No. 2005-964. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

**Cross references:** Administration, ch. 2; civil emergencies, ch. 14; law enforcement, ch. 46; financial matters, ch. 70; personnel benefits, payroll and compensation, ch. 82; personnel and employment, ch. 86.

**State law references:** Sheriff's department civil service, V.T.C.A., Local Government Code § 158.031 et seq.

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## **STATEMENT OF INTENT**

These rules, regulations, policies and procedures, are subject to change at any time by direction of the sheriff's department civil service commission.

Benefits are subject to change contingent upon the availability of funds and approval of commissioners' court. Specifically; all benefits afforded to the employee herein are subject to change to the extent that the cost, of all or a portion of such benefits may be charged against the employee, subject to the employee's consent to pay for same should he desire to continue such coverage.

These rules shall supersede all other rules and regulations pertaining to employees of the Dallas County Sheriff's Department, except for policies and rules outside the scope of a civil service system.

If any part, section, subsection, paragraph, sentence, clause, phrase or word contained in these rules shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of these rules.

## **ORGANIZATION AND DISSOLUTION**

The employees of the sheriff's department may request an election to establish a civil service system if a petition signed by at least 20 percent of the employees is submitted to the county judge. The county judge shall order a departmental election on the question of establishing a sheriff's department civil service system.

The county judge shall hold the election not less than 15 nor more than 45 days after the day the petition is submitted. The election shall be by secret ballot, and each employee is entitled to vote. The ballot shall be printed to permit voting for or against the proposition: "Creation of a sheriff's department civil service system".

The county judge shall canvass the votes and declare the results of the election.

If the result of the election indicates that a majority of the employees voting at the election favor creation of a civil service system, a sheriff's department civil service commission composed of three members shall be appointed as authorized by V.T.C.A., Local Government Code ch. 158, subchap. B.

The sheriff selects one member of the commission, the district attorney selects one member of the commission, and the commissioners' court selects one member of the commission. The sheriff shall designate one member as chairman of the commission.

The sheriff's appointee and the district attorney's appointee shall be appointed or re-appointed in January of even numbered years. The appointee of the commissioner court shall be appointed or re-appointed in January of odd numbered years. A vacancy on the commission shall be filled by the entity that originally appointed the member for the unexpired term whose position has been vacated.

To be qualified for appointment to the commission a person must be 25 years of age or older and have been a resident of the county for three years immediately preceding the beginning of the term of office.

The employees of the department, after the system has been in effect for at least one year, may submit to the county judge a petition containing at least 20 percent of the employees calling for a departmental election on the question of dissolving the sheriff's department civil service system.

The county judge shall hold the election not less than 15 nor more than 45 days after the day the petition is submitted. The election shall be by secret ballot and each employee is entitled to vote. The ballot shall be printed to permit voting for or against the proposition: "Dissolution of the sheriff's department civil service system".

The county judge shall canvass the votes and declare the results of the election. If the results indicate that a majority of the employees voting at the election favor dissolution of the civil service system, the county judge shall declare the system dissolved.

## **CHAPTER I. ORGANIZATION**

### **PURPOSE**

#### **1.00. Civil service system; method and administration.**

The sheriff's department civil service system is a systematic method of appointing employees to office and of promoting them for competency and performance. The following rules are designed to delineate and clarify the procedures for administering the system on a day-to-day basis for those classified employees who fall under the jurisdiction of the system (see sections 2.04 and 2.05 for definition).

#### **1.01. Same; employee coverage.**

A person who is an employee covered by the sheriff's department civil service system when adopted by the commission may not be required to take any competitive examination or perform another act to maintain employment or be required to change unit, section, and/or assignment held or maintained prior to the adoption of this civil service system without cause.

#### **1.02. Same; pronoun usage.**

Hereinafter the pronouns he, him, his or their are used to signify both male and female individuals, and are used only to condense the language of this text, and are not to be construed to be discriminatory against either sex.

## **CIVIL SERVICE COMMISSION**

#### **1.03. Appointments.**

As authorized by V.T.C.A., Local Government Code § 158.034 et seq., the sheriff, district attorney and commissioners' court are authorized to make one appointment each to the sheriff's department civil service commission. The commission shall adopt, publish, and enforce rules relating to 1) selection and classification of employees, 2) competitive examinations, 3) promotions, seniority, and tenure, 4) layoffs and dismissals, 5) disciplinary actions, 6) grievance procedures and 7) the rights of



employees during an internal investigation, 8) other matters relating to selection of employees, the procedural and substantive rights, advancement, benefits and working conditions of employees. The sheriff appoints the chairperson.

**State law references:** Appointment of commissions, powers, V.T.C.A., Local Government Code §§ 158.034, 158.035.

#### **1.04. Meetings.**

Meetings shall be on a once monthly or as needed basis, and shall comply with V.T.C.A., Government Code § 551.001 et seq., ("Open Meetings" law), and shall require two commission members to be present to constitute a quorum. Grievances may be heard by a quorum.

(Ord. No. 2007-1172, 6-5-2007)

#### **1.05. Rules; violations.**

Following are the rules presently in force for all employees contained in the Dallas County Sheriff's Department Civil Service System approved by the sheriff's department civil service commission. The Dallas County Sheriff's Department Civil Service Rules and Regulations shall be adhered to by all employees in the department. Violations of the civil service rules will result in disciplinary action or termination depending on the severity of the violation.

### **HUMAN RESOURCES/CIVIL SERVICE DEPARTMENT**

#### **1.06. Director and/or secretary appointment.**

Dallas County Sheriff's Department Civil Service Commission may appoint a director and/or secretary to the commission who shall be responsible for recommending the implementation of pertinent human resources/civil service rules and regulations to the sheriff's department civil service commission and for administering those approved rules on a day-to-day basis.

### **CHANGE OF RULES**

#### **1.07. Rules; amendment, repeal or supplement.**

These rules may be amended, repealed or supplemented by the sheriff's department civil service commission at any time and new rules may be adopted. Seven days before action by the commission to amend, repeal, or supplement any of these rules or adopt new rules, notice of such action shall be issued. The notice shall contain the date and the place at which the commission will hold a public hearing on such proposals. Copies of the notice shall be posted on the bulletin board in the office of county human resources, sheriff's department resource division and the county administration building, and elsewhere as the commission deems advisable. Copies of the proposed changes or new rules shall be available for inspection by the public and sheriff employees in the office of county human resources, the sheriff's department resource division and the commissioners court clerk.

**1.08. Same; majority vote.**

The sheriff's department civil service commission, after public hearing, shall take action on the proposed changes or new rules and, such changes or new rules may be adopted, by a majority vote with all members present.

**1.09. Same; approval and effective date.**

All rules and amendments thereto shall become effective upon the date of their approval by the sheriff's department civil service commission. Copies of approved rules and amendments shall be distributed forthwith to the sheriff's department and shall be made available for inspection by the public and sheriff employees.

**CHAPTER II. EMPLOYMENT\***

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**\*Cross references:** Personnel benefits, payroll and compensation, ch. 82; personnel and employment, ch. 86.

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**DEFINITIONS**

**2.00. Administrator.**

Person named by sheriff's department to conduct a formal civil service hearing.

**2.01 Commission.**

Dallas County Sheriff's Department Civil Service Commission.

**2.02 Department.**

Dallas County Sheriff's Department.

**2.03 System.**

Dallas County Sheriff's Department Civil Service System.

**2.04 Employee.**

An employee of the Dallas County Sheriff's Department. The term includes a deputy sheriff.

(1) *Classified employee.*

(a) *Category A.* The executive chief deputy, chief deputies, assistant chief deputies, public information advisor, legal advisor, remaining category A positions (limited to ten positions) to be named by the sheriff and filed with the commission. Category A employees serve at the discretion of the sheriff. If they are demoted or removed for reasons other than discipline, and if they are certified law enforcement officers, they have retreat rights to their previous civil service rank.

**Cross references:** Reduction-in-force, App. A, §§ 2.47--2.53.

- (b) *Category B.* All regular, full-time certified law enforcement employees.
  - (c) *Category C.* All other regular, full-time employees who are paid from county funds.
  - (d) *Category D.* All regular, full-time employees paid from other than county funds, such as grants, contracts, self-supporting projects, etc. Grant employees are covered by civil service rules, except they are not eligible for back pay or reinstatement beyond the termination of the funding sources.
- (2) *Excluded employee.* All Dallas County Sheriff's Department employees who are exempt from the civil service system as outlined in V.T.C.A., Government Code § 158.038(b) or by the Attorney General of Texas' opinion(s) are excluded from the civil service system. Additionally all temporary, full-time employees; regular, part-time employees or temporary, part-time employees are excluded from the system.

## **2.05. Regular, temporary, full-time and part-time employees.**

The following four definitions of employees are for payroll as well as for civil service purposes:

- (1) *Regular, full-time employee.* An individual employed by the department on a continuing basis without limitation as to duration of employment and has a regularly assigned work schedule of 40 hours per week or more, less authorized leave without pay.
- (2) *Temporary full-time employee.* An individual employed by the department to perform a job for a limited period of time, generally not to exceed 1,000 hours and who has a regularly assigned work schedule of 40 hours per week or more. Temporary employees are generally not eligible for paid leave (vacation, sick, holiday), or insurance benefits. Specific benefits should be reviewed for individual employee eligibility.
- (3) *Regular part-time employee and sheriff's department bailiff pool.* An individual employed by the department on a continuing basis without limitation as to duration of employment and who has a regularly assigned work schedule of less than 40 hours per week. Part-time employees are generally not eligible for paid leave (vacation, sick, holiday), seniority pay, or insurance benefits. Specific benefits should be reviewed for individual employee eligibility.
- (4) *Part-time temporary employee.* An individual employed by the department to perform a job for a limited period of time, generally not to exceed 1,000 hours and who has a regularly assigned work schedule of less than 40 hours per week. Part-time employees are generally not eligible for paid leave (vacation, sick, holiday), or insurance benefits. Specific benefits should be reviewed for individual employee eligibility.

(Ord. No. 2007-1172, 6-5-2007)

## **2.06. Inactive employee.**

An employee who is on approved leave of absence without pay, in excess of 31 continuous days, but not to exceed 180 days, and who does not accrue length of service credit for benefit purposes. Leave of absence creates a delay in merit increase, step increase and retirement vesting.

## **2.07. Initial Employment Probationary periods**

This period of time consist of employment with the department as a regular, full-time employee. During this time period, law enforcement employees are given twelve months (six months for civilian/non-law enforcement employees) to demonstrate their ability to perform their job duties and meet the performance expectations of the Sheriff's Department.

- A. Non-Licensed personnel: Please refer to Section 86-242 (Initial Employment Probationary Period) of the Dallas County Code.
- B. Licensed personnel: For positions licensed by the state (such as detention service officer telecommunicator and deputy), the initial twelve month employment probationary period will begin the day the employee graduates from training and is certified by the state agency (i.e., complete licensing testing successfully). The following guidelines shall apply during the initial employment probationary period:
  - 1. The employee must demonstrate the ability to satisfactorily perform the assigned job duties.
  - 2. The employee does not have civil service coverage or appeal rights.
  - 3. Newly hired employees shall be informed of the initial employment probationary period when they are hired.
- C. An employee who has attained civil service coverage after completion of the initial probationary period retains civil service coverage and has appeal rights in the event of a lateral transfer, promotion, or demotion, if applicable. For information on performance probation after a promotion, please see Section 86-495 (Performance Probation) of the Dallas County Code.
- D. An employee who has completed the initial six month probationary period as a non-law enforcement/civilian (i.e., clerk or courtesy patrol), retain appeal rights during the training for a detention service officer or deputy, but must complete a twelve month performance probationary period once they graduate from training and are licensed by the state.

### **Employee Status Changes.**

An employee's civil service coverage may be impacted if the employee:

- A. ***Moves to a Non-Civil Service Position.*** A civil service employee who moves to a position not under the jurisdiction of the civil service system

loses all civil service coverage and does not have appeal rights to the Sheriff's Department Civil Service Commission.

- B. ***Moves from a Non-Civil Service Position to Civil Service Position.*** A non-civil service employee who moves to a civil service position must satisfactorily complete the initial twelve months for law enforcement personnel (if applicable) to gain civil service coverage or appeal rights to the Sheriff's Department Civil Service Commission.

(Ord. No. 2018-1236, 10-16-2018)

#### **2.08. Termination of employment.**

The discontinuance of an employee's service with the department as a result of resignation, dismissal, reduction-in-force, retirement or death.

#### **2.09. Class.**

A class consists of all jobs regardless of departmental locations, that are sufficiently alike in duties and responsibilities to be called by the same descriptive title, to be accorded the same pay scale under like conditions, and to require substantially the same education, experience and skills on the part of the incumbents.

#### **2.10. Appointing authority.**

An appointing authority is a term that may be used in place of the sheriff. It is a position that is or has been delegated the authority to hire or terminate employees.

### **EMPLOYMENT PROCEDURES**

#### **2.11. Job Posting.**

Once a position has been created in the county's classification system, all positions (except those defined as category A positions) must be posted or announced through the Dallas County online.

(Ord. No. 2018-1236, 10-16-2018)

#### **2.12. Request to post.**

To post a position, the sheriff's department resource development division will contact human resources/civil service department to create and submit a job posting through the Dallas County online. The Auditor's Office shall verify the availability of funds, existence of the position number and termination or promotional status of last incumbent.

(Ord. No. 2018-1236, 10-16-2018)

#### **2.13. Application process--completion and submission.**

An applicant must complete and submit an online application to be considered for

employment. The information submitted by the applicant in the online application system is utilized by the human resources/civil service department and the sheriff's department resource development division to ensure all applicants or employees under consideration for hire (promotional, transfer or reassignment opportunities) meet the minimum qualifications. For additional information, please refer to Chapter 86-96 of the Dallas County Code.

(Ord. No. 2018-1236, 10-16-2018)

#### **2.14. Screening of Applicants and Performance Testing.**

The department resource development division shall screen all applicants applying for civil service positions to assure that they meet the minimum qualifications for the job. Applicants will be required to pass performance and/or assessment tests to qualify for positions where applicable. The Sheriff's Department Civil Service Commission shall approve the scope and content of such tests, and are subject to revision as necessary.

#### **2.15. Interview.**

Interviewing and selecting the right candidate is important and ultimately the responsibility of each hiring department. A well-planned interview and selection process seeks information about the applicant's background and ability to perform a job. The hiring department must ensure that all county policies and procedures related to hiring are followed. For specific departmental guidelines, please refer to Section 86-97 of the Dallas County Code.

#### **2.16. Physical and polygraph examination.**

All applicants and re-appointed employees of more than six months of absence will be required to meet all Texas Commission on Law Enforcement (TCOLE) requirements and to take and pass a physical examination and a polygraph exam (if required for that position) as a precondition to employment. Both examinations are provided at the county's expense. Background investigations shall be conducted on all final candidates.

(Ord. No. 2018-1236, 10-16-2018)

#### **2.17. Starting salary above minimum.**

No starting salary, other than the minimum salary of the proposed position/class, will be mentioned to prospective employees during interviewing by departmental personnel. Any starting salary above the minimum must be cleared through the auditor's office for availability of budget funds, and the county human resources/civil service department for compliance with compensation policies prior to an offer being made to a prospective employee.

#### **2.18. Forms and orientation.**

All new employees will report to a designated department representative on their first day of work to process necessary forms and to be oriented.

### **2.19. Social security number required.**

All applicants and employees are required to have a social security number and social security card. All law enforcement positions in the department require proof of citizenship.

(Ord. No. 2007-1172, 6-5-2007)

### **2.20. Age of appointees.**

All applicants and employees shall have attained the minimum age of 16 years for civilian positions and 18 years for law enforcement positions, and must be able to provide proof of age (either driver's license or birth certificate), or a higher age as may be required by state law or as a bona fide job qualification.

### **2.21. Incorrect data on application; cause for dismissal.**

Any material misrepresentation of facts or failure to report pertinent data on the application form shall be just cause for dismissal or refusal to hire.

(Ord. No. 2013-1529, 09-17-2013)

### **2.22. Performance Evaluations.**

The Department shall ensure appropriate, effective training and feedback are provided to all employees. Therefore, during either probationary periods (initial employment and performance), the immediate supervisor shall regularly meet with the employee to:

- 1) clearly communicate the job duties and performance standards;
- 2) advise the employee of his progress and ensure training to successfully perform the job duties;
- 3) complete performance evaluations after the first three months and immediately preceding the completion of the six months of the probationary period or more often if desired; and
- 4) ensure that the employee has an overall performance rating of at least 2.75 for satisfactory completion of the employment probationary period. An employee's failure to satisfactorily complete the initial employment probationary period will result in dismissal without right to appeal. Failure of an employee to complete the performance probationary period may result in termination, demotion, or a lateral transfer contingent upon job vacancies and solely at the discretion of the Sheriff.

### **Failure to Receive Performance Evaluations.**

Employees who have not received their formal performance appraisals within 31-days after the due date of the three and six month review are encouraged to discuss it with their supervisors or to immediately contact their department's human resources representative or the central human resources department.

### **2.23. Classification of employee.**

Each employee will be classified as a regular/full-time employee unless otherwise specified at the time of hiring.

## **NEPOTISM**

### **2.24. Violating laws.**

The hiring of employees shall not violate the laws against nepotism as contained in the Penal Code or the Government Code, ch. 573 of the State of Texas or other applicable laws.

### **2.25. Relatives working in same section prohibited.**

Applicants who have members of their immediate family presently working for the department will not be allowed to work in the same section nor may a supervisory relationship exist; nor may future intradepartmental transfers result in such relationships.

### **2.26. Family relationship not a consideration.**

No restrictions shall be placed on employee benefits, salary, and/or opportunities for advancement because of family relationship unless it conflicts with section 2.24 or 2.25.

### **2.27. Immediate family defined.**

"Immediate family" includes: husband, wife, child, step-child, brother, sister, niece, nephew, step-brother, step-sister, parent, step-parent, grandparent, grandchild, aunt, or uncle. Any person serving as parent/guardian, or any relative living in the same household also are included.

## **EQUAL EMPLOYMENT OPPORTUNITY**

### **2.28. Equal employment.**

It is the department's policy to provide equal employment. It will recruit, hire, and promote in all job classifications without regard to race, religion, color, national origin, sex (including pregnancy), age, disability or political affiliation. It is the department's policy to assure that all other matters affecting employees including compensation, benefits, transfers, demotion, layoffs, returns from layoff, county sponsored training, social and recreation programs, will be administered without regard to race, religion color, national origin, sex (including pregnancy), age, disability or political affiliation.

### **2.29. Bona fide occupational qualifications.**



The preceding policy however is not to be construed to prohibit the department from establishing bona fide occupational qualifications as defined by the Labor Code, reasonably necessary to the normal operation of the particular position.

## **LATERAL TRANSFERS**

### **2.30. Lateral Transfers and New Hires.**

An employee may laterally transfer into a Sheriff's Department position that has the same pay grade as the person's position in the Sheriff's Department. An employee transferring laterally shall not receive a salary increase, decrease, or change in review date. An employee who is accepted for an interdepartmental lateral transfer shall give the employee's supervisor two weeks' notice before transferring unless the affected supervisors agree to different time period.

### **2.31. Transfers from Within Dallas County.**

An employee may transfer from one Dallas County department into the Sheriff's Department. An applicant must meet the minimum requirements established by the Sheriff's Civil Service Commission. An employee's starting salary shall be based on whole years of service as established by the employee's Texas Commission on Law Enforcement records and on Dallas County compensation policy.

### **2.32. Lateral Entry as New Hires of Licensed Full-Time Peace Officers, Jailers, or Telecommunicators.**

The Sheriff's Department may hire an applicant from outside Dallas County who has been licensed and employed as a full-time peace officer, jailer, TDCJ Correctional Officer, or telecommunicator for one or more years. The applicant cannot have a break in service that is more than 180 days prior to employment with the Sheriff's Department. The applicant must meet all minimum qualifications and any other requirements established by the Sheriff's Civil Service Commission. An employee's starting salary will be based on whole years of service as established by the employee's Texas Commission on Law Enforcement records and on Dallas County's compensation policy.

### **2.33 Interdepartmental Part-Time Peace Officer Transfers to Full-Time Peace Officer Positions.**

A part-time Sheriff's Department Peace Officer may transfer into a full-time Sheriff's Department Peace Officer position when the applicant meets the minimum requirements established by the Sheriff's Civil Service Commission. An employee's starting salary shall be based on whole years of full-time service as established by the employee's Texas Commission on Law Enforcement records and on Dallas County's compensation policy.

(Ord. No. 2018-1236, 10-16-2018; 07-20-2023)

## **PROMOTIONS**

### **2.34. Purpose.**

The purpose of this policy is to outline the promotional process for employees in the Sheriff's Department. Employees include: civilians (managers, clerks, etc.); non-sworn officers (detention supervisors, detention officers, etc.); and sworn officers (deputies, sergeants, etc.). A promotion refers to the advancement of an employee from one job grade to a higher job grade pursuant to a defined and approved selection process. For promotional rank positions, interested employees must have satisfied their initial probationary period prior to the required test registration period.

For clarification purposes, detention service officers do not test and a deputy sheriff I position is the entry level test for law enforcement and is not considered a promotional rank or test. Promotional ranks include: non-sworn positions at the rank of detention supervisor and above and sworn positions at the rank of sergeant and above.

### **2.35. Advancement.**

It is the policy of the department and the civil service commission to give qualified employees advancement opportunities whenever possible. In order to qualify for a promotion, the employee must satisfy all qualifications, requirements and guidelines as determined and formulated by the commission. Civilian non-sworn and sworn employees follow different paths in the promotional process; therefore it is critical that when an employee is interested in moving to a higher job grade that the employee becomes knowledgeable regarding the process. If at any time the employee is not sure of the process, human resources (central and in the department) are available to answer questions.

### **2.36. Filling Job Vacancies.**

When a vacancy occurs, the Sheriff shall (a) determine when to fill the position based on operational and/or business needs; (b) verify that a position vacancy has appropriate funding (salaries and benefits associated with the vacancy have been paid) and that no pending grievances/appeals for the position are under consideration; and (c) when the decision is made to fill the vacancy, follow all applicable civil service rules and regulations. The sheriff's department resources development division shall ensure job vacancy notices are posted in predetermined locations to ensure notification to current interested employees.

The following guidelines shall apply and are subject to change with the approval of the sheriff's department civil service commission:

#### **I. For Civilian and Detention Service Officer Entry Level Positions**

The applicant and the Sheriff's Department Resource Development Division shall follow Dallas County's Hiring Policy as outlined in Section 86 (90 -110) of the Dallas County Code.

**II. For Sworn and Non-Sworn Officers' Promotional Positions**

The Sheriff's Department Resource Development Division shall at least once a year project the number of vacancies it anticipates will occur the following year. These projections are forwarded to the Secretary to the Sheriff's Department Civil Service Commission in a timely manner in order for the Secretary to schedule the appropriate examination and/or assessment tool for each promotional level (rank). Such exams or assessment tools are scheduled based on these projections and the needs of the department. Exams for each level of positions may be given once a year, several times a year or not at all that year as exams are determined based on projected needs. In addition, the Sheriff's Department Civil Service Commission will determine the nature of all such exams and/or assessment tools and the Secretary to the Sheriff's Department Commission must include such exams and/or assessment tools on the Exam Announcement.

- A. If an exam is required, the Human Resources/Civil Service Department will immediately notify the Sheriff's Department Resource Development Division who shall assume responsibility for announcing the Promotional Exam Test throughout the department;
- B. All applicants are required to follow the instructions outlined in the Exam Announcement, including submitting an initial application through, Dallas County's on-line job application system;
- C. An applicant must successfully pass all examination and assessment tools to be considered for a promotion;
- D. For rank positions (i.e., Sergeant, Lieutenant, Captain, Detention Service Supervisor, Detention Service Manager, and Detention Service Commander), a Certified Promotional List of the successful applicants will be prepared based on the ranking outlined in Section 2.42 of the of the Sheriff's Department Civil Service Rules and Regulations; and
- E. A Final Certified Promotional List will be submitted to the Sheriff's Department Civil Service Commission to certify that all candidates on the List met all requirements established by the Commission related to testing and/or assessment total scores and qualifications (e.g., background investigation, polygraph, psychological, etc. if applicable).

**III. For Entry Level Sheriff Deputy Positions**

All guidelines outlined above apply also to the entry level deputy sheriff positions, with the following exceptions:

- A. The Sheriff Department Civil Service Commission shall approve a Certified Eligibility List for this entry level position for which internal and external candidates may apply. The candidates on the Certified Eligibility List will be ranked based on total exam scores and assessments from highest to lowest. If two or more candidates have the same exam scores, then the following shall apply:
  - 1. **Internal Candidates** – Greatest tenure with the department. Tenure is based on continuous employment from the candidate's

date of hire. If tenure is the same, then candidates will be ranked alphabetically by their last names. If candidates share a last name, then they will be ranked alphabetically by their first names.

2. **External Candidates** – Will be ranked by the total exam score. If there is a tie between the external candidates, the candidates will be ranked by who registered first to sit for the exam.

B. Candidates for promotional positions and entry level deputy positions covered under this section shall be selected in rank order from the Certified Promotional and Certified Eligibility Lists, as applicable.

**IV. Utilization of Test Ranking in Hiring/Promotional Process**

On all promotional and entry level deputy sheriff positions, the Sheriff's Department Civil Service Commission shall determine the utilization of hiring/promotional process. The following rules shall apply:

- A. Exam candidates must successfully meet all testing and/or assessment requirements established by the Sheriff's Department Civil Service Commission prior to registering to sit for a posted exam /assessment;
- B. Promotional exam candidates (sergeants and above) must complete all probationary requirements prior to registering to sit for a posted exam/assessment; and
- C. All exam candidates for the promotional ranks (sworn and non-sworn) and entry level positions shall be selected from the Certified Promotional List and Certified Eligibility List based on rank order in compliance with the rules established by the Sheriff's Department Civil Service Commission.

**V. Utilization of Test Ranking in Determining Seniority for Hiring and Promotional Purposes**

Seniority is calculated based on the officer's ranking on the Certified Promotional List; therefore, the officer (candidate) with the highest score on this List is presumed to be the most tenured, even if several candidates have the same date in rank. If the test scores are the same, then time in the previous rank shall be utilized and if that is the same, then continuous time (no break in service) shall be the determining factor.

(Ord. No. 2013-1529, 09-17-2013; Ord. No. 2015-1539, 11-03-15)

**2.37. Reserved.**

**2.38. Reserved.**

**2.39. New salary grade.**

Salary ranges for promotional increases are as follows:

- (1) Non-law enforcement employees receiving a promotion shall be placed in the appropriate new salary grade and be given a salary which will assure him of a minimum of five percent; or a maximum of five percent per pay grade of advancement, not to exceed a maximum of 20 percent; or the maximum in hire salary, (based on qualifications), whichever is greater.
- (2) Law enforcement and detention officer promotions shall include a ten percent increase and be accomplished by placement in the closest step in the promotional grade which meets or exceeds the ten percent increase in salary. Promotion to corporal shall be limited to five percent and to the closest higher step.
- (3) Employees who transition from civilian employee to law enforcement employee or vice versa will be treated as new hires in accordance with the applicable policy or plan.

#### **2.40. Promotions; two-week notice.**

Any employee who is accepted for a promotional transfer between departments shall give his supervisor/department head two weeks prior notice before transferring between departments unless a mutual agreement of lesser or greater notice is made between the affected department heads.

#### **2.41. Promotional probation.**

A. An employee who is promoted to a higher grade level shall be placed on a six-month probationary period from his effective date of promotion (exception: detention service officers and deputies begin their twelve month probationary period from the day they graduate from training and are licensed by the state agency) during which time the employee must satisfactorily demonstrate his ability to perform the duties required. The following guidelines shall apply:

- (1) The department will ensure that appropriate, effective training is provided;
- (2) The employee shall receive three and six month performance appraisals;
- (3) Additional formal feedback may be given at the department's discretion, e.g., weekly/daily training assessments, performance standards, etc.; and
- (4) If an employee does not receive their performance evaluation, the employee should request it from their department supervisor. If the employee does not receive the performance evaluation within 30 days of the due date, employee should notify their Human Resources Representative.

B. Failure of the employee to satisfactorily perform the assigned job duties during the probationary period may result in the following:

- (1) Demotion back to the employee's old position and salary with the Sheriff's approval;
- (2) Transfer to another suitable position; or
- (3) Termination in the event no suitable positions are open.

C. Civil Service covered employees who are transferred, promoted or demoted with civil service coverage will retain their coverage during the probationary period in the new position. They do not start their initial employment probationary period over again, unless they terminate employment with Dallas County and return at a later date. While the department may take any one of the actions outlined in Section 2.41(B), documentation will be required and an employee is eligible to appeal such actions to the Sheriff's Department Civil Service Commission, with the exception of transfers (Section 2.41(B-2)).

## **2.42 Promotional Guidelines for Law Enforcement.**

A. For designated law enforcement positions, the following promotional guidelines shall apply:

- (1) Promotions are made from an official promotional list approved by the Sheriff's Department Civil Service Commission;
- (2) This official promotional list is good for one-year unless extended by the civil service commission at the request of the Sheriff or his/her representative.
- (3) An officer's promotional rank is determined by his test score for that rank;
- (4) An officer is promoted from the official promotional list based on his ranking on the promotional list. For seniority purposes, the officer ranked #1 on the promotional list will be considered to have been promoted before the officer ranked #2, etc., even when the department administratively decides to promote them on the same day.
- (5) An officer may be promoted on a temporary basis without following the formal promotional process. However, the officer receives no credit for time in rank while in a temporary assignment;
- (6) When a vacancy occurs, the Sheriff shall
  - a. determine when to fill the position based on operational and/or business needs;
  - b. the department must verify that a position vacancy has appropriate funding and there are no pending grievances/appeals for the position under consideration; and
  - c. when the decision is made to fill the vacancy, the Sheriff must follow all applicable civil service rules and regulations.

B. Promotional Sequence.

When law enforcement officers are promoted, the following promotional sequence will apply:

- (1) For the vacancy under consideration, the officer with the highest ranking on the applicable civil service promotional list shall be promoted first. If there is a tie between officers, then consideration is given to:
- (2) Seniority in the rank the officers currently hold. If there is still a tie,

then consideration is given to:

- (3) Ranking on the promotional list for the rank the officers currently hold. If there is still a tie, then consideration is given to:
- (4) Seniority in the next lower rank held. If there is still a tie, then consideration is given to:
- (5) Ranking on promotional list for the next lower rank held. If there is still a tie, then consideration is given to:
- (6) Seniority with department.

Example:

- 1) Officer A and B took the Lt. promotional exam and both scored 99. Since there is a tie because they both made the same score (99), consideration is given to the officer "who has the most seniority as a sergeant (which is their current rank).
- 2) Upon review of seniority as a sergeant, the department made an administrative decision to promote both officers on the same day. However, consideration must be given to the ranking on the promotional list for sergeant to determine who has more seniority. The officer with the higher score would have more seniority.
- 3) Upon review of ranking on the promotional list, both officers scored 95 on their sergeant examination. Since there is still a tie (95), consideration is then given to "who has the most seniority in the prior rank" (deputy).
- 4) Upon review of seniority as a deputy, both officers were hired on the same day. Consideration is then given to their ranking on the promotional list for deputy (prior rank).
- 5) Upon review of ranking on the promotional list, both officers scored 94 on their deputy examination. Since there is still a tie (94), consideration is then given to "who has the most seniority in the sheriff's department."

If there are questions regarding the promotional process, please contact the secretary to the Sheriff's Department Civil Service Commission for clarification.

(Ord. No. 2009-0096, 1-13-2009; Ord. No. 2018-1236, 10-16-2018)

## **DEMOTIONS**

### **2.43. Definition.**

A demotion is a reduction of an employee from a higher salary grade to a lower salary grade as a result of: 1) the inability of the employee to fulfill the functions of the job; 2) the employee's request for such change; 3) disciplinary action; 4) reduction-in-force; or 5) significant changes as a result of organizational or program changes over which the sheriff has no control, such as reorganizations.

### **2.44. Authority.**

The sheriff has the authority to demote employees for just cause or reduction in force as defined in Rule 2.46. The demoted employee's new salary grade will be determined by the county's compensation policy.

(Ord. No. 2018-1236, 10-16-2018)

**2.45. Reserved.**

**REDUCTION-IN-FORCE**

**2.46. Definition.**

A reduction-in-force means a decrease in the number of authorized employees resulting from a discontinuance of services, organizational changes, or change in funds authorization, and is not to be considered a disciplinary action.

**2.47. Determination.**

Changes in position authorization required in a reduction in force will be determined by commissioner's court and will be initiated by the ordered reduction of budgeted funds, or the reduction of authorized positions in specific departments/sections. There shall be no right to an appeal hearing with the Civil Service Commission for a reduction in force implemented in accordance with Dallas County Policy and/or the Sheriff Department's General Orders.

(Ord. No. 2018-1236, 10-16-2018)

**2.48. Referral for reassignment.**

Whenever possible, employees occupying positions to be deleted due to a reduction in force in one department/section shall be referred for reassignment to other position openings for which they are qualified in the same or other departments/sections by coordinating this action with the department's resource division.

**2.49. Retention.**

Retention of employees will be based on length of service in the position rank.

**2.50. Utilization of Seniority in a Reduction-in-Force.**

A. Length of service of an employee for inclusion in layoff ratings shall be based upon seniority in rank. Seniority in rank is determined by how long an officer has occupied his/her current rank. If more than one officer have the same date of rank, then seniority is based on the ranking on the official promotional list for their current rank. An officer ranked #1 (highest test score) on the official promotional list for their current position will have been considered to have more seniority before officer #2, #3, #4, etc. on the official promotional list. Therefore, the layoff sequence order shall be officers #4, #3, #2, and #1.

B. Layoff Sequence when tie.

When there is a tie for a reduction in force, the following layoff sequence will apply:

- (1) The officer with the lowest ranking on the official promotional list for his/her current rank shall be the first to be laid off. If there is a tie



- between officers, then we will consider:
- (2) Seniority in the next lower rank and subsequent rank (if applicable) held. If there is still a tie, then we consider:
  - (3) Ranking on promotional list and subsequent lists (if applicable) for the next lower rank held. If there is still a tie, then we consider:
  - (4) Seniority with the department.

For further clarification, the following example illustrates the definition of "Seniority in Rank."

Example: Officers A and B were promoted to Sergeant from the promotional list of 2007 on the same day, April 2, 2007. Officer A's score was 90 on the Sergeant exam of 2007. Officer B's score was 80 on the same exam and promotional list. During a Reduction in Force in 2008, Officer A has more seniority in rank than Officer B because although they were both promoted on the same day, his score (90) is greater than Officer B's score of 80.

C. Periods of absence on leave without pay shall not be credited as continuous departmental service. Length of service in the class for which the layoff is computed shall include service in any other class deemed by the sheriff, subject to the approval of the sheriff's department civil service commission, to be equal to, or greater than the employee's current classification. An employee who resigns from the department, or is dismissed for cause, shall lose all seniority credited to him/her prior thereto, and subsequent reinstatement or reemployment of the employee shall not restore the seniority so lost. Any non-law enforcement employee laid off shall after timely reinstatement (one year) regain the seniority credit he/she possessed at the time of layoff. Any sworn law enforcement employee laid off shall, after timely reinstatement (two years) regain the seniority credit he/she possessed at the time of layoff.

### **2.51. Option to demotion.**

A regular employee shall, in lieu of layoff, be afforded the option of demotion within the department to a position of the next lower grade or class; provided that no such demotion shall in turn require layoff or demotion from such lower grade or class of any employee whose layoff rating in his/her own class is at least as high as that of the other employee.

Non-law enforcement and sworn law enforcement employees impacted by a reduction-in-force who accepted a demotion in lieu of termination shall have one year for non-law enforcement and two years for law enforcement personnel (detention and sworn officers) from date of impact to return to the same job code held prior to the demotion.

For example: Employee A (sworn law enforcement) previously accepted a demotion in lieu of termination on November 1, 2012. Based on this policy decision, the employee's reinstatement privileges will end on November 1, 2014.

Any sworn law enforcement employee who is demoted due to a reduction-in-force shall be (re)promoted back in reverse of demotion without any competitive re-examination for the classification from which he/she was promoted, as long as the vacancy occurs within one year for non-law enforcement and two years for law enforcement personnel (detention and sworn officers from date of impact). The number

of times an employee can be promoted and demoted due to a reduction in force within the first two years of the initial demotion are without limit.

An employee who was offered a demotion to continue his/her employment with Dallas County Sheriff's Department shall have preference over an employee who was offered a demotion and chose to discontinue his/her employment.

The salary of a non-law enforcement employee being reduced in job grade due to a reduction in force, will be determined by the sheriff, but shall not be greater than his/her current salary nor greater than the maximum of the prescribed salary range of their new position. The salary of a law enforcement employee being reduced in job grade due to a reduction in force will be determined by the sheriff, but shall not be greater than the maximum step allowed, had the employee remained in the lower job grade.

#### **2.52. Grant funded employees.**

Non-law enforcement employees, who are hired into grant-funded positions from the external job market, are specifically excluded from bumping employees in regular, full-time positions funded from the general fund but are permitted to bump employees within the same grant.

Non-law enforcement employees, who are promoted into or otherwise transferred to grant-funded positions, are allowed to bump based on seniority other regular, full-time non-law enforcement positions funded from the general fund.

Law enforcement employees are allowed to bump based on seniority other regular, full-time law enforcement positions funded from the general fund.

#### **2.53. Employee Reinstatement.**

If a non-law enforcement employee is laid off as the result of a reduction in force, and if within a period of one year thereafter, a vacancy should occur in the same department and in the same or in a lower class, the employee shall be reinstated in the vacant position, provided that such employee is willing to accept the offered employment, and provided further that such employee meets all bona fide job qualifications for the position.

If a sworn law enforcement employee is laid off as the result of a reduction in force, and if within a period of two years thereafter, a vacancy should occur in the same department and in the same or in a lower class, the employee shall be reinstated in the vacant position, provided such employee is willing to accept the offered employment, and provided further that such employee meets all bona fide job qualifications for the position.

#### **2.54. Restoration of benefits.**

All employees being reinstated from reduction in force status will be subject to restoration of benefits and salary level as determined by the county's compensation policy.

#### **2.55. Promotional increases for demoted employees.**

All non-law enforcement employees accepting a demotion in lieu of layoff shall

be eligible to receive promotional increases greater than what is allowable under promotional policies, but not to exceed their salary at time of demotion.

All law enforcement employees accepting a demotion in lieu of layoff shall be eligible to receive promotional increases greater than what is allowable under promotional policies but not to exceed their maximum earned step had they retained the higher grade.

**2.56. Preference.**

When more than one laid off person qualifies for reinstatement under this section, the preference shall be given to the person laid off last since in probability that employee has the most seniority.

(Ord. No. 2013-1529, 09-17-2013)

**RE-EMPLOYMENT (Not a Reduction-in-Force)**

**2.57. Employment of Former Employees**

The department is encouraged to give consideration to former employees who terminated their previous employment relationship with the department in good standing and who demonstrated good job performance.

**2.58. Length of break in service.**

In such re-employment cases, if not more than one year break in service has occurred, the employee may be reinstated in his old classification, if a vacancy is available, and may be reinstated at the old grade and salary upon recommendation of the sheriff and with the concurrence of the commissioners court. The employee will start a new initial employment probationary period and must be re-employed and on the payroll within one-year of termination date. For officers in promotional ranks, this reinstatement clause does not apply as candidates can only be selected from a Certified Promotional List approved by the Sheriff's Department Civil Service Commission. To determine which positions are covered under promotional rank, please refer to Section 2.36 (IV) of this policy.

(Ord. No. 2013-1529, 09-17-2013)

**RESIGNATIONS**

**2.59. Written resignation; two-week notice.**

An employee who desires to resign in good standing with the department shall submit his written resignation to the sheriff through his chain of command and, except for good cause shown, give at least two weeks' notice of his intention to leave the department.

An employee who fails to give two weeks' written notice of his/her resignation

and whose insurance premiums are paid on his/her behalf shall have the full insurance premium or accrual amount (county plus employee cost) deducted from the last paycheck.

(Ord. No. 2007-1172, 6-5-2007)

## **TERMINATION**

### **2.60. Reasons for termination.**

An employee may be terminated from the department for just cause, including, but not limited to, incompetence, unsatisfactory job performance, offensive or unlawful conduct, violation of the drug/alcohol policy, insubordination, conviction of a felony, conviction of a misdemeanor involving moral turpitude, conviction of driving while intoxicated, conviction of family violence, repeated failure to report for work without reporting the reason for absence to his immediate supervisor within 24 hours prior to his normal working shift, gross or repeated neglect of duty or other conduct inconsistent with the interest of the department and/or the county.

### **2.61. Written notice of termination.**

The employee shall be furnished a written notice of termination at the time of termination, or the earliest possible time after the date of dismissal. Such notice shall specify the cause for termination, and a copy shall be sent to the human resources/civil service department. If the notice cannot be presented in person to the employee, the notice should be sent certified mail to the employee's last known address within such time limits.

### **2.62. Notice of termination.**

The sheriff or his designee shall inform any employee of his intention to take action of termination, specifying the cause(s). Employees who are being dismissed are entitled to a pre-termination conference with the sheriff or his designee to be told the reasons for termination.

### **2.63. Grievance.**

If a non-probationary, regular full-time employee feels he is being unjustly terminated he may utilize the grievance system provided he meets the filing deadlines (see chapter IV). Utilizing the grievance system will not alter an employee's termination date (i.e., an employee may be terminated and then file a grievance).

### **2.64. Grievance upheld; reinstatement, back pay.**

If a grievance is upheld, the employee may be reinstated and may be granted back pay depending upon the determination of the grievance. Category D employees are not eligible for a grievance determination that awards back pay and/or reinstatement beyond the termination date of the funding source. Process for termination shall be as outlined in chapter V of this policy.

## **RETIREMENT**

## **2.65. Mandatory retirement.**

The sheriff's department does not have a policy relative to continued employment and an employee's age except where state or federal law may place minimum or maximum age limitations on employees.

## **2.66. Retirement date.**

Retirement date shall mean the last working day of the month that the employee reaches his retirement age.

## **EFFECTIVE DATE OF TERMINATION**

### **2.67. Effective date; leave benefits.**

Effective date of an employee's termination will be the last, actual day the employee worked for the department. Any accrued leave benefits that are eligible for payment as of the employee's termination date will be paid on the employee's last paycheck.

## **LEAVE**

### **2.68. Employee return to work after an illness/injury.**

- (a) If an employee in the sheriff's department is absent from work for more than three or more consecutive days due to an injury or illness, the employee is required to furnish a return to work statement from the treating physician prior to him/her returning to work. A bureau or division commander may require additional information, regardless of the length of sick time taken, provided the immediate supervisor has just grounds to believe the employee is not sick. [Taken from general orders]
- (b) If a non-law enforcement employee in the sheriff's department has been absent from work for more than 45 calendar days due to an illness or injury, then the employee must receive medical clearance from the county's physician in the employee health center before the employee is allowed to return to work.
- (c) Due to the physical requirements of law enforcement positions, if a law enforcement employee in the sheriff's department (deputies, detention service officers, etc.) has been absent from work for more than 30 calendar days due to an illness or injury, then the employee must receive medical clearance from the county's physician in the employee health center before the employee is allowed to return to work.
- (d) All sheriff's department employees who are returning to work with restrictions (regardless of the number of days absent) must schedule their returns to work with the county's human resources/civil service department (214) 653-6585 or (214) 653-7930. The following steps should be followed:
  - (1) Contact the human resources/civil service department to schedule a return to work appointment as soon as the employee receives a medical release to return to work from his/her medical

- provider; and
- (2) Immediately forward or have forwarded the medical release form or TWCC-73 to the county's human resources/civil service department who will then ensure the county's physician has it prior to the employee's scheduled appointment or if restrictions are listed, the human resources/civil service department will coordinate all necessary actions with the county's physician and/or the bureau or division commander. The employee should also feel free to have his/her medical provider forward any applicable medical documentation to the county's physician in the employee health center and bring along all current prescriptions. Employees should also be able to inform the doctor of all current medications taken.

The county's physician will conduct a medical evaluation to determine the employee's fitness for duty--whether the employee is able to perform their essential job functions, with or without accommodations. If the assessment by the county's physician is:

- (1) Satisfactory, the employee will be given a full return work release with no restrictions or with limited follow-up care by the county's or employee's physician(s); or
- (2) Not satisfactory, the county's physician will work directly with the employee and his/her medical provider(s) to address medical issues in order to return the employee to work as soon as possible. The actions proposed by the county's physicians may include:
  - a. Return the employee to work after developing a follow-up plan between the employee/the county's physician and/or the employee's medical provider(s); or
  - b. Not return the employee to work, pending further immediate medical care if the county's physician deems the medical condition to be critical. A general description of critical is injury "life-threatening, to put in harms way" the employee, other employees, inmates, the county, the public, etc. The county's physician will work closely with the employee and his/her healthcare provider(s) to resolve the medical issue(s) as soon as possible in order to return the employee to work.

If an employee fails to comply with the provisions outlined in this policy, the employee will be subject to disciplinary action, up to and including termination.

If an employee is absent from work due to a family member's illness or injury, the employee should carefully review all personnel policies and procedures related to sick leave (section 82-362 of the Dallas County Code) and family and medical leave (section 82-601 of the Dallas County Code).

(Ord. No. 2008-839, 4-29-2008)

### **CHAPTER III. PERSONAL CONDUCT AND AFFAIRS\***

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\*Cross references: Personnel and employment, ch. 86; General Orders Manual, chs.

302, 312; Code of Conduct, chs. III, IV, V.

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### **3.00 Compliance with code of conduct and general orders.**

All department employees shall obey the rules and regulations of the department by complying with the current Code of Conduct and the current General Orders Manual, division, or bureau standard operating procedures which are all incorporated into this document as if printed herein.

#### **3.01. Revisions.**

Each time the Code of Conduct and the General Orders Manual are updated or rewritten, a copy will be provided to the commission.

## **PROHIBITION AGAINST UNLAWFUL HARASSMENT**

#### **3.02. Policy statement.**

It is the policy of Dallas County and the sheriff's department to provide all employees a work environment that is free from any form of unlawful harassment, any hostile work environment based on unlawful harassment, or any retaliatory action against an employee who reports unlawful harassment.

#### **3.03. Reporting harassment.**

An employee may report harassment to a chief deputy, internal affairs, or county human resources/civil service department. In order to insure that all relevant information is available to the commission, the employee shall cooperate with the internal affairs division in conducting a full investigation.

#### **3.04. Grievances.**

The sheriff's department civil service commission shall hear grievances concerning harassment.

## **CHAPTER IV. GRIEVANCE SYSTEM PROCEDURES\***

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\***Cross references:** General Orders Manual, ch. 306.

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### **PART I. PURPOSE**

#### **4.00. Employee grievances.**

Effective management and respect for individual dignity requires that employees have means available for the proper redress of grievances. A sheriff's department employee having a complaint relating to any matter affecting his or her employment is ensured the right of review at succeeding levels of department authority, until his or her grievance is resolved. The right of an employee to file a grievance and its administrative review promotes efficiency and results in improved morale. Those positive benefits are defeated if employees are reluctant to file a grievance. Therefore, no action of a formal or informal nature shall be taken by the department against any employee, his or her witnesses, or employee representative, merely for his or her having filed a grievance, nor is such filing to be otherwise looked upon with disfavor by the department.

#### **4.01. Publication and revisions.**

Each time the grievance system procedure is modified, the department shall submit same to the commission for review and approval. The approved procedure shall be incorporated in the departmental General Orders Manual.

#### **4.02. Purpose of grievance system.**

The purpose of the grievance procedure is to settle all grievances between the sheriff and all employees under the sheriff's department civil service system as quickly as possible and at as low an administrative level as possible, so as to assure efficient work operations and maintain employee morale.

### **ELIGIBILITY**

#### **4.03. Eligibility.**

Any category B, C or D regular, full-time civil service employee may process a personal grievance. Any category B, C or D probationary civil service employee may file a grievance on defined items except those relating to his/her performance rating or dismissal.

### **SCOPE OF GRIEVANCE APPEAL PROCEDURES**

#### **4.04. Grievance appeal procedures.**

A personal grievance may be filed by an employee, as defined in section 4.03 above, on one or more of the following grounds:

- (1) Improper application of rules, regulations and procedures.
- (2) Unfair treatment, including coercion, restraint or reprisal.
- (3) Discrimination because of race, religion, color, national origin, sex (including pregnancy), age, disability, or political affiliation.
- (4) Disciplinary actions taken against him/her without proper cause.



- (5) Improper application of fringe benefits or improper working conditions.

## **PART II. TIME LIMITS FOR FILING AND RESPONSE**

### **4.05. Grievances; time limits.**

Grievances shall be filed in writing no later than close of business on the seventh calendar day from its occurrence, and/or from the date of receipt of written notification of disciplinary action, exclusive of holidays, unless it is beyond the control of the employee.

### **4.06. Filing grievances to appropriate persons.**

Disciplinary action exclusive of termination, demotion or suspension grievances should be initially filed with the first level of supervision above the employee's supervisor who caused the action, with a copy to the employee's immediate supervisor. All other grievances should be initially filed with the employee's immediate supervisor.

### **4.07. Termination, demotion and/or suspension.**

A grievance pertaining to termination, demotion or suspension shall be filed directly to the sheriff's department legal advisor's office who will send it to the Dallas County human resources/civil service department to have a hearing scheduled. Such grievance shall be filed in writing within seven days from day of disciplinary action.

### **4.08. Copies.**

A copy of the grievance should be retained by the employee and a copy should be filed with the human resources/civil service department. All copies should note the date the grievance was typed or written and the date and time the grievance was received by supervision/management and/or sheriff's department legal advisor.

### **4.09. Initial investigation.**

Supervision shall investigate the grievance and make a written determination no later than close of business on the seventh calendar day, exclusive of county holidays, from receipt of the grievance.

### **4.10. Written appeal.**

If the employee is not satisfied with the determination of the grievance, he shall have until the close of business on the seventh calendar day from notice of the determination, exclusive of county holidays, to make a written appeal to the next management level.

### **4.11. Time limits.**

The preceding time limits (by close of business on the seventh calendar day exclusive of county holidays for investigation and determination, and by close of business on the seventh calendar day, exclusive of county holidays for appeal) shall be

used consistently after the initial appeal for both levels of management. A mutually agreed time extension between the aggrieved party and management for fact finding purposes, emergencies, etc. may be granted by filing the written agreement with the county human resources/civil service department.

**4.12. Employee's failure to meet time limits.**

If the employee fails to meet the filing time limits, the grievance will be considered null and void.

**4.13. Supervisor's failure to meet time limits.**

If the supervisor fails to meet the time limits, the employee may then file with the next higher level of management without waiting for a determination.

**4.14. Process expedited.**

If succeeding levels of management are aware of all facts contained in a grievance and concur with the preceding supervisor's determination, they may elect to allow the grievance to be forwarded to the next higher level of management by initiating their concurrence on the grievance.

**4.15. Record of date and time.**

Date and time received, and date and time of response by supervisor and the employee, must be noted on the grievance to assure verification of compliance with the time limits.

**PART III. INFORMAL RESOLUTION PROCEDURES**

**4.16. Grievance resolution; investigation.**

In solving grievance matters the supervisor should investigate the complaint thoroughly. When needed or at the employee's request, the supervisor may conduct an informal hearing and require witnesses or interested parties to testify, as to verify grievance charges.

**4.17. Same--Rules.**

Grievance hearings are not judicial in nature and therefore rules of court of law will not be followed.

**4.18. Recording of grievance hearing.**

Whenever possible a grievance hearing should be recorded in order to reduce the rehearing of testimony during appeal proceedings. Failure to record the hearing does not create any grounds to overturn the decision.

(Ord. No. 2018-1236, 10-16-2018)

**4.19. Representation.**

The employee and supervisor will represent themselves during departmental hearing. A designated representative will be permitted only during hearings before the sheriff's department civil service commission.

**4.20. Administrator of hearing.**

If a hearing is conducted and the grievance is between two or more employees, then the employee's supervisor will act as an administrator of the hearing. If the grievance is between an employee and his supervisor then the next level supervisor in the department will act as administrator of the hearing.

**4.21. Date and time established.**

The administrator will establish a mutually agreeable date and time for the hearing to be conducted when all witnesses can be present and when it is not disruptive to work patterns of the organization, and will notify all individuals sufficiently in advance so that they may appear at the designated time.

**4.22. Supervisor's rights.**

The supervisor will be allowed to present pertinent facts or witnesses to testify with the employee then being allowed to cross examine the witness.

**4.23. Employee's rights.**

The employee will then be allowed to present his facts or witnesses with the supervisor being allowed to cross-examine.

**4.24. Loud and abusive language prohibited.**

Loud and abusive language by the employee, supervisor, witnesses, will not be allowed and will be grounds for disciplinary action or dismissal from the hearing proceedings.

**4.25. Written determination.**

After conclusion of the hearing, the administrator will have seven calendar days, exclusive of county holidays, to make a written determination of the hearing proceedings.

**4.26. Back pay.**

Any decision by intermediate levels of supervision to recommending back pay must be referred to the commission for review and approval. Back pay awards approved by the commission must also be approved and court ordered by commissioners court.

**4.27. Assistance with grievance submittal.**

Employees may seek assistance from the sheriff's department human resources division in submitting grievances. Human resources assistance will be limited to advice on procedures and making available personnel records. The human resources division

may not serve as an advocate for the grievant. Additional assistance may be secured from the sheriff's department legal advisor, if appropriate.

#### **4.28. Information from records and regulations.**

Employees will be given information from official sheriff's department personnel records related to their grievances upon request. Employees will also be given full access to relevant regulations and official directives. When feasible, extracts or copies of these regulations and directives will be given to the employee upon request. Records will not be released if prohibited by law.

#### **4.29. Informal complaint procedures.**

These procedures must be completed before the complaint can progress to the formal procedure.

- (1) *First step.*
  - (a) The employee must present the grievance to his/her supervisor within seven days of the action's occurrence or within seven days of learning of its occurrence.
  - (b) The employee must inform his/her supervisor, in writing, that this presentation is the first step of the grievance procedure.
  - (c) When the supervisor receives the grievance, he or she will try to resolve it by following the resolution guidelines outlined in Part III-Resolution Procedures. If the issues are outside the supervisor's authority and responsibility, he or she must contact sheriff's department officials who may be able to help.
  - (d) If the supervisor cannot resolve the grievance within seven days of receiving it, the supervisor must tell the employee that he/she was unable to resolve the grievance and that the employee has a time limit of seven days for submitting the grievance to the second step.
- (2) *Second step.*
  - (a) If the grievance is not resolved in the first step, the employee must advise the supervisor, in writing, that he/she wishes to go to the second step.
  - (b) After being told that the grievance will go to the second step, the supervisor will set up a meeting between the employee, supervisor, and the sheriff's department officials below the sheriff who have the authority to decide on the matter involved in the grievance within seven days.
  - (c) During this meeting, the grievance will be considered informally. However, the sheriff's department official holding the meeting will prepare a memorandum for record (MFR).
    1. The MFR will briefly summarize the grievance, the consideration reached, and the course of action seven

days after the meeting is completed.

2. If an acceptable solution is not reached during the meeting, the MFR will advise the employee of his/her right to submit the grievance formally.
3. The MFR will also state the time limits for submitting a formal grievance and to whom it should be addressed.

#### **4.30. Exceptions to the informal grievance procedures.**

Some grievances may be filed formally, without going through informal procedures. In these cases, the formal nature of the actions involved and the consideration given to the employee's position before issuing the decision substitutes for the informal procedure. Therefore, grievances involving the following issues may be filed under the formal procedure within seven calendar days of the decision or occurrence:

- (1) Grievances regarding termination,
- (2) Grievance regarding suspensions,
- (3) Grievances regarding demotions, and
- (4) Grievances when sheriff's department management officials and the employee both agree that the steps of the informal procedure would serve no useful purpose, in which case either one or both steps may be waived.
  - (a) For example, steps may be waived if the employee and the supervisor have recently discussed the matter fully, but failed to reach a resolution. Since this action fulfilled the requirements for the first step of the grievance procedure, it is unnecessary to repeat it.
  - (b) When sheriff's department management officials and the employee agree to waive one or both informal steps, sheriff's department management will document the reason for the waiver in the grievance file. The employee and a sheriff's department management official will sign the waiver.

#### **4.31. Formal grievance procedures.**

If a grievance cannot be resolved through the informal procedures, the employee may submit the grievance in writing, if not previously submitted. This grievance must explain the specific issues involved and the relief sought. The formal grievance procedures follows the following process.

- (1) The grievance must be submitted within seven days of receiving the memorandum for record (MFR) of the informal procedural meeting, within seven days of signing the waiver agreement, or within seven days of the occurrence and/or notification of the termination, suspension, or demotion action.
- (2) The employee will submit the grievance to the sheriff's department legal advisor's office.

- (3) The sheriff's department legal advisor will send it to the county human resources/civil service department to have a hearing scheduled.
- (4) The legal advisor will send the following information to the county human resources/civil service department for utilization by the sheriff's department civil service commission.
  - (a) A written designation of the employee's representative, if any,
  - (b) An MFR of the informal second step meeting or a waiver of the informal steps,
  - (c) A letter of transmittal that summarizes the efforts made to resolve the grievance and explain the sheriff's department management's position on whether the grievance is timely, whether it can be grieved, and why the relief sought should not be granted and
  - (d) A statement that the employee and the employee's representative have been afforded an opportunity to review the appropriate material to the grievance.

#### **4.32. Rejecting a grievance.**

The legal advisor's office of the sheriff's department will review each grievance for compliance with this directive and recommend to the civil service commission rejection of a grievance if:

- (1) It has not been submitted in a timely manner,
- (2) The matter grieved is not covered by the sheriff's department grievance system, or
- (3) The grievance has not been processed through the informal procedures.

#### **4.33. Follow-up actions.**

The county human resources/civil service department and supervisors must insure that the employee's status as a productive member of the work force is maintained and he/she does not suffer reprisals for filing the grievance. The employee must not let his/her performance suffer due to dissatisfaction with the grievance processing and/or final decision.

### **PART IV. ORDER OF APPEALS**

#### **4.34. Appeals procedure order.**

A grievance must be appealed through the chain of command in the following order:

- (1) Grievant's immediate supervisor.
- (2) Elected official/department head or division head or committee appointed by elected official/department head (i.e., a specific individual or individuals will be designated by the elected official/department head).
- (3) Civil service commission (or specially designated board or committee

appointed by the civil service commission). Only the civil service commission with approval of commissioners court may make back pay awards.

- (4) An employee who, under final decision of the commission, is demoted, suspended, or removed from a position, may appeal the decision by filing a petition in a district court of the county, no later than the 30th day after the day the decision is issued. An appeal under this system will be tried de novo.

#### **4.35. Subpoena authority of the commission.**

The sheriff's department civil service commission has the power to subpoena witnesses and to conduct such investigations as it deems necessary which may require the production of books, papers, or other evidence relevant to the investigation

### **SHERIFF'S DEPARTMENT CIVIL SERVICE COMMISSION RULES OF PRACTICE SCOPE OF RULES**

#### **4.36. Rules generally.**

These rules shall govern the review of an administrative action by the sheriff's department civil service commission in all grievance proceedings, except as hereinafter stated.

#### **4.37. Definitions.**

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Commission* means the sheriff's department civil service commission.

*Grievant* means the employee or his representative.

*Department* means the sheriff's department.

*Secretary or secretary to the commission* means the individual responsible for scheduling and coordinating the civil service meetings. This individual is the county's director of human resources/civil service.

#### **4.38. Representation.**

Any party to a grievance may appear and present his position. The grievant must notify the secretary if he has a representative or attorney and the representative's/attorney's name, address and telephone number. Notification should occur at the time of filing the grievance, or as soon thereafter as possible. Either the department's representative or attorney may present the department's case, but both will not be allowed to participate in the presentation of information. The same rule will apply to the grievant, his representative or attorney.

#### **4.39. Filing of grievance.**

Grievance hearings scheduled before the commission shall be initiated by a grievance filed with the sheriff's legal advisor after exhaustion of appeals through the department's chain of command. The legal advisor will forward the grievance to the secretary of the sheriff's department civil service commission.

#### **4.40. Claim for relief.**

- (1) A grievance must be submitted on the form adopted by the commission for this purpose and shall contain a brief statement of:
  - (a) The disciplinary action challenged;
  - (b) The relief sought;
  - (c) Why disciplinary action was not justified.
  
- (2) Actions overturned by the commission that result in a back pay award may be adjusted to account for delays occasioned by the grievant or his representative/attorney.

#### **4.41. Burden of proof.**

The department has the burden of proving that the action taken should be upheld if the action is a termination, demotion or suspension without pay. For grievances filed under Rule 4.04 the grievant shall have the burden of proof.

(Ord. No. 2018-1236, 10-16-2018)

#### **4.42. Dismissal of grievance.**

At any time before a decision is rendered, the grievant may withdraw the grievance, and the withdrawal shall be entered into the record.

#### **4.43. Postponements.**

Requests for rescheduling must be in writing and must establish an emergency. Only one postponement will be granted by the secretary. Further requests to reschedule a grievance hearing will be presented to the commission for determination.

#### **4.44. Hearing.**

**a. Videoconference Appearances at a Civil Service Meeting.** Appearances before the Commission will be live and in person at the designated location of the hearing, except the Secretary may approve a videoconference appearance of an individual via video conference, under the following circumstances:

- i. pandemic, natural disaster, or other local, state, or national emergency.



ii. a written request by the department and grievant for a witness or party to appear via videoconference, executed by both parties and submitted to the Secretary at least sixteen (16) days before the hearing.

iii. Hardship on the department representative, grievant, or a witness to appear in person at the hearing. Hardship is more than mere inconvenience and includes, but is not limited to the following:

1. department representative, grievant, or a witness is solely responsible for the daily care of a person with a permanent disability living in the same household (this doesn't include children or others who aren't permanently disabled).
2. department representative, grievant, or a witness has a medical condition that makes it difficult to attend the live hearing.
3. witness is out of town or had pre-existing travel plans to be out of town at the time the hearing notice is sent and changing the travel plans will be burdensome.

Requests for an individual to appear via videoconference at a meeting must be made to the Secretary sixteen (16) days before the meeting. If the request involves an appearance at a grievance hearing, all parties to the grievance shall be copied on the request and must submit their objections to the request, if any, to the Secretary no later than twelve (12) days before the hearing. The Secretary will notify the requesting party (copying all other parties), in writing, eight (8) days before the meeting or hearing, whether the request is granted or denied. The Secretary's decision to: 1) deny a request for an individual to appear via videoconference at a grievance hearing; or 2) to deny or grant a request for an individual not involved in a grievance hearing to appear at the meeting via videoconference, is final.

If the Secretary grants a request for an individual to appear at a grievance hearing via videoconference, the Department or Grievant may object to the Secretary's decision to allow a witness to appear via videoconference. Objection(s) must be received by the Secretary at least five (5) days before the hearing setting forth in specific detail the basis for the objection(s). The objection(s) will be heard the day of the hearing. If the Chair of the Commission overrules the objection(s), the hearing will proceed and the witness will participate via videoconference. If the Chair of the Commission sustains the objection(s), the hearing (or witness) will be rescheduled for a live and in person hearing on another day.

**b. Civil Service Commissioner Appearance via Videoconference.** A quorum of the civil service commissioners must be present at the designated location of the meeting, which is open to APPENDIX A SHERIFF'S DEPARTMENT CIVIL SERVICE RULES AND REGULATIONS\* the public. A non-presiding commissioner may participate by videoconference if in compliance with Sections 4.44(c) and (e). A non-presiding commissioner participating via videoconference will be considered absent from any portion of the meeting during which audio or video communication with the member is lost or disconnected.

**c. Technical Requirements For Videoconference Appearance For County Individuals (County employees, staff, officers) and Commission members.**

- i. Videoconference appearances will take place through Webex. All the audio/visual connections at the location of the quorum and the remote locations

of the Dallas County individual(s) appearing via videoconference must comply in all respects with the DIR Rules or exceed the minimum standards established by the DIR Rules.

ii. All persons participating in the meeting remotely must have two-way audio and video communication with each other location during the entire meeting (i.e., must be visible and audible throughout the entire meeting).

iii. Each portion of the meeting held by videoconference call that is required to be open to the public must be visible and audible to the public at the location where the quorum is present.

iv. The quality of the audio and video signals perceptible by members of the public at the host location where the quorum is present and any remote location must be such that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

v. Any individual appearing via videoconference (or grievant/department representative who made the request to appear via videoconference) shall make sure that all necessary equipment and software are in proper working order in compliance with this Section prior to the time of the scheduled hearing.

vi. The video and audio feed of the persons participating remotely must be broadcast live at the location of the meeting.

**d. Requirements For Members of the Public to Participate Via Videoconference.**

i. Members of the public participating in the meeting remotely must have two-way audio and video communication, which must be broadcasted live at the location of the meeting at the time of their participation in the meeting.

ii. The quality of the audio and video must be such that the members of the public's face must be clearly visible and audible, to other participants and the public at the meeting location, wherein they are able to observe the demeanor and hear the voice of the member of the public participating in the meeting.

**e. Videoconferencing, general.**

i. While speaking, each participant's face must be clearly visible and audible to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the meeting location where a quorum is present, and at any other location of the meeting that is open to the public.  
APPENDIX A SHERIFF'S DEPARTMENT CIVIL SERVICE RULES AND REGULATIONS\*

ii. All civil service commissioners must be clearly visible and audible at all times, even when they are not speaking

iii. During a grievance hearing, the following must be clearly visible and audible at all times, even when they are not speaking:

a. The attorney or person representing the Department or Grievant.

b. A witness during their testimony.

iv. an audio recording of the open meeting must be made.

**f. Notice.**

The notice of a meeting wherein some commissioners may take part via videoconference must specifically state where the quorum of the commissioners will be physically present and the intent to have a quorum present at the meeting location.

**g. Hearing Materials.**

- (1) The materials furnished for a hearing shall be directly related to the disciplinary action taken and shall include:
  - (a) Statement of Corrective Action form and/or notice of separation form regarding the disciplinary action taken (dismissal, demotion, suspension, reprimand, warning);
  - (b) Copy of formal grievance filed;
  - (c) Department's response to grievance;
  - (d) Previous performance evaluations for the grievant;
  - (e) Employment application of the grievant, if applicable;
  - (f) Any prior disciplinary actions taken against the grievant;
  - (g) Copy of the internal affairs file of grievant;
- (2) All documentation must be submitted to the secretary of the commission who will then distribute to the appropriate parties. Neither the grievant nor the department representative may submit documentation to the commission members before the scheduled hearing. Documentation such as character letters will not be accepted by the commission members.

(Ord. No. 2018-1236, 10-16-2018; Ord. No. 2020-0906 9-1-2020, Ord. No. 2022-0681 6-21-2022)

**4.45. Presentation of Case.**

In hearings of appeals for termination of employment, each party's presentation will be limited to three hours, including the time required for opening statements and closing statements. In hearings of appeals from demotions in rank, suspensions from duty, or any other appealable action, each party will be limited to one-hundred twenty (120) minutes, including the time required for opening statements and closing statements. The grievant or the department may file a motion to increase the allocated time or orally request a time increase at the hearing, which may be granted, modified or denied, at the Chair's sole discretion. The Chair of the Commission or his/her designee will act as time keeper.

The department and the grievant should strive to present their case in the most efficient and expedient manner. The Chair of the Commission has the discretion to exercise reasonable controls over proceedings, including excluding redundant testimony and placing time limits on both the Department and the grievant during the hearing so

that evidence will be presented in the most efficient and expedient manner in conformity with these rules.

Parties and witnesses are expected to preserve order and decorum and not engage in disruptive or disorderly conduct during a hearing.

(Ord. No. 2018-1236, 10-16-2018; Ord. No. 2020-0906 9-1-2020)

#### **4.46. Open meetings.**

The grievant shall be allowed to decide if the hearing will be open or closed to the public. If the grievant decides to have a closed hearing, the following persons are authorized to be present:

- (1) Commission members;
- (2) Secretary to the Commission;
- (3) Grievant;
- (4) Grievant's representative/ attorney;
- (5) The county's human resources department representative;
- (6) The department's attorney;
- (7) The department's representative;
- (8) Legal counsel for the commission;
- (9) The court reporter.

#### **4.47. Omissions.**

A grievant who fails to submit in writing any part of his grievance may have the omitted portion entered into the record at the hearing to show that the matters were considered.

#### **4.48. Witnesses requested.**

The civil service commission shall have the power to subpoena and require the attendance of witnesses and the production thereby of books, papers, and other evidence pertinent to the investigation, as well as the power to administer oaths to such witnesses.

The Chairman of the Commission upon the request of the grievant, the grievant's representative, the county attorney or the county attorney's designee shall administer oaths; and issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material. No party will be permitted more than six (6) subpoenas for witnesses without showing good cause. A party seeking more than six (6) subpoenas, for a witness to testify, must provide a sworn declaration with the following;

1. The subject matter on which the witness is expected to testify;

2. Explanation as to why the witnesses' testimony is necessary to prove or refute allegations in the grievance or the Department's action made the basis of the grievance; and
3. Explanation as to why the witnesses' testimony would not be duplicative of the expected testimony of other witnesses called to testify.

The request to subpoena a witness or documents must be made in writing to the Secretary to the Civil Service Commission at least 15 days before the date of the scheduled hearing.

An oath administered under this provision has the same force and effect as an oath administered by a magistrate in judicial capacity.

Documentary material may include any books, records, documents, papers, accounts, or witnesses that the requester considers relevant to the case.

Civil service system employees (category, B, C, and D) who are fact witnesses shall be required to attend grievance hearings and testify without subpoena. A fact witness is a person who has personal knowledge of the incident resulting in the grievant's appeal to civil service. Fact witness does not include character witnesses. Chain-of-command supervisors making discipline recommendations are not fact witnesses unless they have personal knowledge of the incident.

The Department and Grievant shall refrain from calling multiple witnesses that can only provide cumulative, redundant, or duplicative testimony, which wastes resources and time.

Subpoenas for witnesses and documents are limited to relevant information. Either party may object to the subpoena, in writing or orally, at the time of the hearing. The Chair of the Commission has complete discretion to determine whether the subpoena requests relevant information. In making this determination, the Chair of the Commission may but is not limited to considering the relevance and necessity of information/testimony (e.g., relevant but duplicative).

Civil service employees who fail to appear or refuse to give testimony will be deemed in violation to the department's General Orders and therefore subject to appropriate disciplinary action. Civil service employees shall be subject to disciplinary action for failure to respond to questions posed by the commission regarding the employee's official job duties provided such statement is not used against the employee in a criminal proceeding.

Any witness appearing at a grievance hearing shall attend the proceedings until discharged by the commission or the party requesting the witness. Time away from the workplace to participate in a grievance hearing shall be paid leave. No action will be taken to prevent an employee from testifying on behalf of a grievant and no action of retaliation will be taken against any witness who testifies in a grievance hearing.

(Ord. No. 2020-0906 9-1-2020)

#### **4.49. Witnesses notified.**

The department's legal advisor shall notify witnesses employed in the Sheriff's Department of the time and place of the hearing. The Secretary of the Civil Service Commission shall notify any witnesses who work for Dallas County, but do not work for the Sheriff's Department. The grievant will provide the legal advisor with the names of the witnesses requested and their current work assignment. The grievant will identify each witness as (1) a fact witness, or (2) a character witness.

The grievant, grievant's representative, county attorney, or the county attorney's designee may further request the Chairman of the Commission to subpoena a witness or witnesses. The party requesting the subpoena(s) will prepare the subpoena(s) and file two copies along with a cover letter to the Secretary to the Sheriff's Department Civil Service Commission. The request must be made in writing to the Secretary to the Civil Service Commission at least 15 days before the date a commission meeting will be held and must include:

The party requesting the subpoena(s) shall be responsible for obtaining a Civil Process Server to serve the subpoena(s).

Subpoenaed witnesses who are unable to be present in the civil service commission meeting shall notify the secretary to the civil service commission as soon as possible before the scheduled hearing date.

Any Sheriff's Department employee subpoenaed to appear and give testimony or to produce books, papers, documents etc. and who fails or refuses to do so shall be deemed in violation of the department's General Orders (Court/Commission Attendance No. 335.00) and law and therefore subject to criminal charges and appropriate disciplinary action.

As a matter of law, a person who fails to appear as subpoenaed commits a misdemeanor offense punishable by a fine up to \$1000, confinement in the county jail for not more than 30 days, or both.

The party requesting the witness will be responsible for notifying the witness of cancellations and rescheduled hearings.

Departmental policy does not prohibit grievant or grievant's attorney from discussing the grievance before the hearing.

(Ord. No. 2018-1236, 10-16-2018; Ord. No. 2020-0906 9-1-2020)

#### **4.50. Testimony by affidavit.**

Upon agreement of both parties, testimony by affidavit will be permitted. Because the affidavits will not be subject to cross examination, the weight given each affidavit will be within the discretion of the commission. Affidavits that will be presented to the commission shall be provided to the other party (grievant or departmental attorney) seven days before the hearing.

#### **4.51. Procedure.**

Both parties will have an opportunity to provide an opening statement, limited to five (5) minutes per party, and present and cross-examine witnesses. The parties will be allowed to make closing statements, limited to five (5) minutes per party. The department will proceed first if it has the burden of proof. If the grievant has the burden of proof, he/she will proceed first. The department is required to present its witnesses first in order to justify any disciplinary action taken. The burden of proof shall be by the preponderance of the evidence.

(Ord. No. 2018-1236, 10-16-2018; Ord. No. 2020-0906 9-1-2020)

#### **4.52. Additional testimony.**

If necessary for the determination of justice, the commission may permit additional evidence to be offered at any time prior to a decision being rendered.

#### **4.53. Commission to render decision.**

Upon conclusion of the proceeding, the commission shall render its decision and it shall be reduced to writing by the secretary. The commission shall determine:

- (1) If the action was a violation of written rules, policy, or law;
- (2) If the evidence supports the charge of misconduct;
- (3) If the disciplinary action was consistent with the charge.

#### **4.54. Decisions.**

The decision of the commission will either (i) affirm the disciplinary action taken by the department; (ii) overturn the disciplinary action taken by the department; or (iii) reduce the disciplinary action taken by the department and may grant the relief sought by the grievant which shall be framed to give the party all relief to which he may be entitled at the commission level. Decisions pertaining to demotions, suspensions, or terminations shall be given in writing. Reinstatement may be with or without back pay.

(Ord. No. 2018-1236, 10-16-2018; Ord. No. 2020-0906 9-1-2020)

#### **4.55. Appeals.**

Action taken by the commission which results in a demotion, suspension, or termination may be appealed to a district court within 30 days after written notification of the commission's decision.

#### **4.56. Quorum and Majority.**

Two Commissioners constitute a quorum which allows a hearing to proceed. Each party to the grievance shall be informed when only two commissioners (quorum) will be in attendance at the hearing. Either party to the grievance may request to delay the hearing until all three commissioners are present. Notice of an objection needs to be

filed prior to a hearing where a quorum of two is present. Decisions by the commission shall be by majority vote. If the commission does not have a majority vote to sustain the discipline, the department will not have met its burden of proof, and the grievant will prevail.

(Ord. No. 2018-1236, 10-16-2018)

#### **4.57. Scheduling of grievance hearings.**

- (1) Grievances are scheduled according to the date received, except grievances appealing terminations, which are given priority over all other types of pending grievances.
- (2) A grievance may be rejected by the secretary to the commission if determined not to be a grievable issue. The commission, the grievant and the sheriff's legal advisor will receive written notification of the determination. The commission may overturn the decision of the secretary. However, the decision of the secretary will be final if the commission has adopted a rule or a precedent that the issue is not grievable.

(Ord. No. 2007-1172, 6-5-2007; Ord. No. 2018-1321, 11-6-18)

#### **4.58. Notification of grievance hearing.**

The grievant will receive a minimum of 21 calendar days prior notification of the scheduled hearing date, unless there is a mutual agreement for a lesser time period between the secretary and the grievant. This time frame does not apply to postponements.

### **CHAPTER V. DISCIPLINE/DISCIPLINARY ACTION**

(This section will include the revised code of conduct where appropriate)

#### **5.00. General.**

Discipline is, by definition, "training expected to produce a specific type or pattern of behavior, especially training that produces moral or mental improvement." This training, when effective, unites an organization in its conduct. There are two types of discipline:

- (1) Positive discipline: Voluntary compliance with rules, which is preferred.
- (2) Negative discipline: Coerced compliance, which is not preferred.

#### **5.01. Disciplinary procedures.**

The department shall publish a "Discipline/Disciplinary Action Procedure" and incorporate the same in the departmental General Orders Manual. Each time said procedure is modified, the department shall submit same to the commission for review and approval.



### **5.02. Criminal charges.**

- (1) If an employee is indicted for a felony or officially charged with a class A or class B misdemeanor, or a class C misdemeanor involving family violence, the sheriff may:
  - (a) Temporarily suspend the person without pay, or
  - (b) Collect the employee's credentials if he is a certified law enforcement officer, and place him on restricted duty with pay, for a period not to exceed 30 days after the date of final disposition of the charge.
- (2) If an employee is indicted for a felony or officially charged with a class A or B misdemeanor, and he has also been charged by the department for violating rules and regulations related to the same incident, he may delay the civil service hearing for not more than 30 days after the final disposition of the charge. This does not delay the implementation of any disciplinary action taken by the sheriff. The employee must notify the Sheriff's Department and the Sheriff's Civil Service Secretary of the final disposition of the charge, in writing, within ten (10) days of the final disposition. Upon receipt of timely notice of the final disposition, the matter will be set for a civil service hearing in accordance with normal procedures. If the Sheriff's Civil Service Secretary does not receive written notice of the final disposition of the charge (indictment or complaint) from the employee or his or her representative within thirty days after the final disposition of the charge, the grievance is deemed dismissed for lack of jurisdiction.

(Ord. No. 2022-0681 6-21-2022)

### **5.03. Acquittal or dismissal of criminal charges.**

Acquittal or dismissal of criminal charges does not mean that an employee has not violated a civil service rule and does not negate nor detract from internal disciplinary charges brought by the department against the employee.

### **5.04. Conviction of criminal charges.**

Conviction is cause for termination. Conviction of an employee for a felony or a class A or B misdemeanor shall be considered res judicata, and the employee may be terminated without further investigation or charges.

## **COMPLAINTS AGAINST LAW ENFORCEMENT OR DETENTION SERVICE OFFICERS**

### **5.05. Written complaint signed by complainant.**

Before a complaint against a law enforcement or detention service officer can be considered by the sheriff's department, the complaint must be:

- (1) in writing; and
- (2) signed by the person making the complaint.

For purposes of this policy, the complaint may be internal or external to the sheriff's department.

(Ord. No. 2007-1172, 6-5-2007)

**5.06. Time limit for notification of written complaint.**

A copy of the signed complaint shall be given to the officer within a reasonable time after the complaint is **formally** filed (received) by Internal Affairs.

(Ord. No. 2007-1172, 6-5-2007; Ord. No. 2018-1236, 10-16-2018)

**5.07. Disciplinary action.**

- (1) Disciplinary action shall not be taken against the employee if a copy of the signed complaint has not been provided to the employee.
- (2) The officer or employee shall not be indefinitely suspended or terminated from employment based on the complaint unless:
  - (a) The complaint has been investigated, and
  - (b) There is evidence to prove the allegation of misconduct.

(Ord. No. 2007-1172, 6-5-2007)

**CHAPTER VI. POLITICAL ACTIVITY**

**6.01. Voting.**

Employees are encouraged to vote for the person or party of their choice.

**6.02. Involvement in political campaign restricted.**

Employees will not be allowed to perform or be involved in political campaigning or related activities during their working hours, while in county uniform, or while using county vehicular equipment.

**6.03. Mandatory involvement prohibited.**

Additionally no category B or C or D employee shall be required to participate in political campaigns, or related activities as a condition to obtain or retain employment.

**6.04. Retribution prohibited.**

No category B or C or D employee shall be disciplined, terminated or deprived of their rights for refusal to participate in political activities, to participate in political campaigns, or related activities as a condition to obtain or retain employment.

**6.05. Grievance.**

Any category B or C or D employee who feels he/she has been disciplined, terminated or deprived of their rights because of actions specified in chapter VI may utilize the grievance system.

**6.06. Approved time off granted for voting.**

Approved time off, in reasonable amounts, may be granted for voting in national, state, county and city elections.

**6.07. Early voting encouraged.**

Employees are encouraged to participate in the early voting process if the use of this method will reduce time away from work.