

## MARICOPA COUNTY LAW ENFORCEMENT OFFICERS MERIT SYSTEM RULES

### RULE 1 - DEFINITIONS

The following words and phrases used in these Rules have the defined meanings hereinafter set forth unless otherwise clearly indicated in the context and consistent with ARS 38-1001 et seq.

- 1.01 **AGENCY:** Maricopa County Sheriff's Office served by the Maricopa County Law Enforcement Officers Merit System Commission
- 1.02 **ALLOCATION:** the assignment of a position to an appropriate class.
- 1.03 **APPEAL:** a written request filed with the Commission by an employee for relief from a suspension, demotion, dismissal or reduction in force pursuant to Section 16.H of the resolution.
- 1.04 **APPELLANT:** the employee filing an appeal with the Commission.
- 1.05 **APPLICANT:** a person who has filed an application for employment.
- 1.06 **APPOINTING AUTHORITY:** the Sheriff of Maricopa County or the designated representative(s) authorized to act in this capacity.
- 1.07 **APPOINTMENT:** the offer and the acceptance of employment in the County service.
- 1.08 **ARMED FORCES:** the United States Air Force, Army, Navy, Marine Corps or Coast Guard.
- 1.09 **BOARD:** the Maricopa County Board of Supervisors.
- 1.10 **CANDIDATE:** an applicant approved for participation in an examination.
- 1.11 **CERTIFICATION:** the referral of the names of qualified eligibles by the Commission to an Appointing Authority.
- 1.12 **CLASS:** a position or group of positions sufficiently similar in duties and responsibilities that the same requirements for education, experience, knowledge, ability and other qualifications may be demanded of the occupants so that the same compensation schedule can be applied with equity.
- 1.13 **CLASS SPECIFICATION:** the official description of the type and level of duties and responsibilities of positions assigned to a class and the necessary qualifications which a person must possess for performing those duties.

- 1.14 **CLASSIFICATION PLAN:** the orderly arrangement of positions under separate and distinct classes on the basis of current duties and responsibilities.
- 1.15 **CLASSIFIED SERVICE:** all sworn paid law enforcement officers of the Maricopa County Sheriff's Office.
- 1.16 **COMMISSION:** the Maricopa County Law Enforcement Officer's Merit System Commission.
- 1.17 **COMPENSATION:** the salary, wage, allowances and all other forms of valuable consideration earned by or paid to an employee except reimbursement for necessary expenses which have been authorized and incurred.
- 1.18 **COMPENSATORY TIME:** time off granted to an employee in lieu of monetary payment for overtime worked.
- 1.19 **CONTINUOUS RECRUITMENT:** recruitment under which applications are received continuously after announcement has been made to that effect.
- 1.20 **COUNTY:** the Maricopa County Government.
- 1.21 **COVERED EMPLOYEE:** a Law Enforcement Officer of the Maricopa County Sheriff's Office who is paid a wage, salary or stipend from public monies in accordance with official entries on a County payroll.
- 1.22 **DAYS:** calendar days unless the context otherwise requires.
- 1.23 **DEMOTION:** a change in the assignment of an employee from a position in one class to a position in another class having a lower range of pay.
- 1.24 **DEPARTMENT:** the Maricopa County Sheriff's Office.
- 1.25 **DIRECTOR:** the Maricopa County Human Resources Director or designee.
- 1.26 **DISCHARGE OR DISMISSAL:** the involuntary separation of a person from County employment as a result of unsatisfactory service.
- 1.27 **ELIGIBLE:** a person who has qualified for and attained a passing score on an examination for a specific class.
- 1.28 **EMERGENCY APPOINTMENT:** an appointment made during an actual government emergency to prevent the impairment of public business.

- 1.29 EMPLOYEE:** a Law Enforcement Officer of the Maricopa County Sheriff's Office who is paid a wage, salary or stipend from public monies in accordance with official entries on a County payroll.
- 1.30 EXAMINATION:** the evaluation process used to measure the qualifications and determine the relative excellence of candidates.
- 1.31 EXAMINATION ANNOUNCEMENT:** the official public issuance of notice to give examinations either on a scheduled or continuous basis to fill positions as they are or become vacant in the Maricopa County Sheriff's Office.
- 1.32 HEARING OFFICER:** a person appointed by the Commission or its chairman as a hearing officer, or any member of the Commission designated by it or its chairman as a hearing officer.
- 1.33 IMMEDIATE FAMILY:** spouse, brother, sister, child, mother, father, grandparents, grandchildren or a person serving in place of a parent of either employee or spouse.
- 1.34 LAW ENFORCEMENT OFFICER:** a regularly appointed and paid deputy sheriff of the Maricopa County Sheriff's Office.
- 1.35 LAYOFF:** the separation of a covered employee for reasons of shortage of funds or work, or by reduction of the statutory duties of the Sheriff.
- 1.36 MILITARY LEAVE:** the leave of absence status of a regular or probationary employee who leaves a position to serve in the Armed Forces of the United States or of this State in time of national emergency or State emergency or for military training and who has the right under Statutes (ARS 26-168, 38297, 38-298, or 38-610) relating to reinstatement of a person after military service to return to his position of a like position.
- 1.37 PAY PLAN:** the Maricopa County Pay Plan which assigns an appropriate salary range to each class of positions.
- 1.38 POSITION:** a specific employment, whether occupied or vacant, involving duties requiring the services of one person.
- 1.39 PROBATION:** a specified period of employment following appointment, reemployment, transfer, promotion or demotion; it is the final step in the examination process during which the work performance of an employee is evaluated.

- 1.40 PROBATIONARY EMPLOYEE:** a person who is serving an initial probation period in a regular position.
- 1.41 PROMOTION:** a change in the assignment of an employee from a position in one class to a position in another class having a higher range of pay based upon competitive examinations.
- 1.42 REALLOCATION:** changing the classification of an existing position when a material and permanent change in the duties or responsibilities of the position occurs. Such reallocated position will be filled by competitive examination.
- 1.43 REEMPLOYMENT:** the return to the department of a former employee of the department who was separated by layoff.
- 1.44 REGISTER:** an official list of eligibles for a particular class or group of classes, placed in order of excellence according to results of the examination, which shall be used by the appointing authority for selection for appointments to positions in the department.
- 1.45 REGULAR STATUS:** the status of an employee achieves when he is retained in a position of the classified service after the successful completion of the initial probation period.
- 1.46 REINSTATEMENT:** a return to the classified service within one year of resignation at the rank of Deputy Sheriff of a former employee who resigned in good standing from the classified service.
- 1.47 RESOLUTION:** the Maricopa County Resolution of December 5, 1977 that established the Maricopa County Law Enforcement Officer Merit System effective December 5, 1977.
- 1.48 RESPONDENT:** the County agency whose interests are adverse to those of the appellant or who will be directly affected by the Commission's decision.
- 1.49 RULES:** the Rules as adopted from time to time by the Maricopa County Law Enforcement Officer's Merit System Commission.
- 1.50 SUSPENSION:** the temporary separation of an employee from his position for disciplinary reasons.
- 1.51 TRANSFER:** a change in the assignment of an employee from one department or from one position to another position without loss of benefits within the County Government Service.

- 1.52 UNDERFILL:** the filling of a vacant authorized position by appointment of a person to a position in a class which is assigned a salary range lower than the salary range of the vacant authorized position.
- 1.53 VETERAN:** any person separated from active duty in the Armed Forces of the United States (Army, Navy, Air Force, Marine Corps or Coast Guard) under honorable conditions.

## **RULE 2 - GENERAL PROVISIONS**

### **2.01 PURPOSE**

The purpose of these Rules is to implement and give effect to the intent and requirements of the Resolution which establishes the Maricopa County Law Enforcement Officers' Merit System, a system of personnel administration based on merit principles and scientific methods governing recruitment, examination, appointment, promotion, transfer, layoff, removal, discipline, development and welfare.

### **2.02 RULES**

- A. These rules shall apply to all sworn-paid Law Enforcement positions in the department.
- B. Amendments to the Rules may be made by the Commission from time to time in accordance with A.R.S. § 38-1001 et seq and § 38-1101 et seq.
- C. The Director shall prepare and submit to the Commission proposed rules for the classified service. The Commission shall give reasonable notice to the Sheriff and the employees covered by the Law Enforcement Officers Merit System so they are given an opportunity to appear before the Commission to express their views thereon. Such notice shall be effected by posting the time and place for the hearing of such proposed rules, ten (10) calendar days before such hearing. Copies of proposed rules will be made available upon request.
- D. Rules or amendments shall become effective thirty (30) calendar days after adoption by the Commission unless otherwise specified by the Commission. The Rules shall be consistent with the terms of A.R.S. § 38-1001 et seq. and A.R.S. § 38-1101 et seq. as may be proper and necessary for its enforcement.

### **2.03 EXEMPTIONS**

The Sheriff, one Chief Deputy and two at-will Chiefs equivalent to a Deputy Chief or above shall be exempt from the provisions of these Rules. The Chief Deputy is not exempted from these Rules if appointed under the provisions of Rule 9.14.

### **2.04 DIRECTOR'S DUTIES**

- A. To perform all of the administrative functions of the Maricopa County Law Enforcement Officers Merit System Commission as assigned pursuant to the Resolution.
- B. To attend all meetings of the Commission and provide for the recording of the minutes of its proceeding and be the official custodian of all its records, and keep the members of the Commission informed of all important matters occurring in administration of the Human Resources program.

- C. To prepare for the approval of the Commission and maintain a roster of all covered employees, in which there shall be set forth, as to each covered employee, the class title, pay or status and other pertinent data.
- D. To appoint such employees and such experts and special assistants as may be necessary to carry out effectively the provisions of the Resolution and Rules subject to budget limitations and any laws pertaining thereto.
- E. To develop, in cooperation with the appointing authority and others, programs for the improvement of employee effectiveness including training, health, counseling and welfare.
- F. To announce, recruit, examine and otherwise provide staffing services to the Department as provided for in these Rules.
- G. To make and publish annual reports regarding the work of the Commission, and such special reports as may be requested by the Commission or other appropriate authorities.
- H. To perform any other lawful act which the Commission may consider necessary or desirable to carry out the purposes and provisions of the Resolution and Rule.

#### **2.05 PERFORMANCE APPRAISAL**

- A. The performance appraisal system presently in use in the Department shall be adopted. Covered employees shall be evaluated at the three, six and twelve month points after beginning a probationary period. Appraisals shall be accomplished annually thereafter. Special appraisals may be accomplished at any time.
- B. The Commission shall review the performance appraisal system from time to time and may make changes as they deem necessary.
- C. Performance appraisals shall be considered in determining training needs, salary advancements, order of layoff, reemployment, and as a means for identifying covered employees who should be promoted, demoted, or dismissed.

#### **2.06 PROGRAMS FOR EMPLOYEE DEVELOPMENT**

The Commission shall cooperate with the Appointing Authority in developing and promoting programs for covered employee training, safety, morale, work motivation, health, retirement counseling, and welfare.

#### **2.07 MEMBERSHIP IN ORGANIZATIONS**

Covered employees may join and hold office in any employee organization, labor union, or professional association in which they are eligible for membership, provided that such employee organization, labor union or professional association is not organized for any illegal purpose or primarily engaged in activities contrary to law. No person in the County Service shall attempt to prohibit or intimidate any covered employee from belonging to or holding office in any lawful organization. Membership in such organizations shall not be considered in any personnel action, including promotion, demotion, suspension or dismissal.

## **2.08 GRIEVANCE PROCEDURE**

The Commission shall adopt the grievance procedure presently in use in the Department, with the exception that the initial grievance must be filed within twenty (20) calendar days of the event or knowledge of the event. Covered employees may obtain consideration of grievances, alleged discrimination, including handicap or problems in matters over which the appointing authority has complete or partial jurisdiction and for which redress is not provided elsewhere in these Rules. The purpose of the grievance procedure is to afford covered employees a written and systematic means of obtaining further consideration of grievances after every reasonable effort has failed to resolve them through informal discussions initiated with their immediate supervisor.

## **2.09 DISCRIMINATION IN EMPLOYMENT**

Discrimination, as defined by state or federal law, and this Section, in any manner by a county official, appointing authority or employee against or in favor of any applicant, or employee because of race, gender, religion, color, national origin, age, disability, sexual orientation, pregnancy, veteran status, genetic information or any other characteristic defined by law or Board approved policy shall be prohibited.

## **2.10 REPRISALS**

The Department shall take no disciplinary or punitive action against a covered employee, nor impede or interfere with the exercise by the covered employee, of his/her right of review, appeal, or of any other covered employee right under the Resolution or these Rules.

## **2.12 RECORDS AND REPORTS**

- A. The Director shall prescribe personnel action forms which the Department shall use to report personnel actions and status changes as it may require. The Director shall inform the Department which personnel actions and status changes must be reported to it.
- B. The Director shall prescribe necessary information and the general format for agency personnel records.

## **2.12 SERVICE OF NOTICE**

Unless otherwise provided by law or these Rules, whenever any notice, paper or document is to be given to or served upon any person or the Department by the Commission or the Director, such notice, paper, or document may be personally served or it may be served by mailing it to the last known residence or business address of the addressee. Service is complete upon mailing. Timeliness of such notice shall be governed by the applicable Resolution and Rules.



**2.13 SEVERABILITY**

If any provision of these Rules, or the application thereof to any person or circumstances is held invalid, the remainder of the Rules, or the application of such provision to other persons or circumstances, shall not be affected thereby

**2.15 CONFLICT WITH FEDERAL AND STATE REQUIREMENTS**

If any provision of this Resolution conflicts or is inconsistent with state or federal law or regulations, state or federal law or regulations shall apply.

## **RULE 3 - COMMISSION PROCEDURES**

### **3.01 COMMISSION MEETINGS**

The Commission shall hold meetings in accordance with ARS §38-1002(D), ARS §38-1101 et seq., the Arizona Opening Meeting Act (ARS §38-431 et seq.) and the Resolution. Three (3) members shall constitute a quorum for the transaction of business. A majority of the quorum may take legal action in all areas of the Commission's duties and powers.

### **3.02 AGENDA**

All matters to be presented for consideration by the Commission at a meeting shall be placed on the Commission's agenda as soon as practicable. The agenda shall be provided to each member of the Commission prior to such meetings.

### **3.03 NOTICE OF MEETINGS**

Public notice of Commission meetings shall be given (as required by A.R.S. §38-431.02).

### **3.04 MINUTES**

The Director shall provide for the recording of the official actions of the Commission in its minutes. The time and place of each meeting of the Commission, the Commissioners present, all official acts of the Commission and, when requested, a Commissioner's dissent and reasons shall be recorded in the minutes. The Director shall present minutes for approval or amendment at the next meeting. Following approval, the minutes, or a true copy, shall be open to public inspection, except minutes of an executive session

## **RULE 4 - ENTRANCE EXAMINATIONS**

### **4.01 EXAMINATION ANNOUNCEMENTS**

- A. Open Competitive Announcements: Examination announcements for open competitive examinations shall be by public notice (no less than ten calendar days) or on an open continuous basis. Every reasonable effort shall be made to attract qualified persons to compete in the examinations for appointments.
- B. Distribution of Announcements: Copies of open competitive examination announcements may be distributed to County agencies, State Employment Service offices, news media, educational institutions including professional vocational educational organizations, and such other individuals and organizations as the Commission may deem useful or expedient.
- C. Content of Examination Announcements: The public announcement of examinations shall specify the official entrance title, salary range, typical duties to be performed (or where this information may be obtained), the minimum qualifications and any special qualifications, the final date for receipt of applications or statement of open continuous examinations, the nature of the examination, and how to apply, and the time and places of examinations subject to the Resolution and these Rules.

### **4.02 APPLICATIONS**

- A. Official Forms: All applications shall be on the forms prescribed by the Commission.
- B. Filing Applications:
  - 1. Applications for open competitive entrance examinations must be filed as designated in the announcement on or before the final filing date specified in the announcement, or postmarked by midnight of that date. Applications for open continuous examinations may be accepted at any time and examinations held as the Commission deems necessary and desirable for staffing the Department.
  - 2. Applicants will be required to furnish evidence of proof of citizenship or authority to work in the United States and evidence of identity pursuant to the Immigration Reform Act of 1986.
  - 3. On behalf of the appointing authority, the Director may require applicants to furnish references, evidence of character, education, physical condition or other qualifications as may be deemed necessary according to the job requirements. Such evidence shall be furnished by the applicants at their own expense.
- C. Qualifications: Applications for open competitive examinations shall be open to all applicants who meet the minimum age requirement of any applicable Arizona Revised Statutes, the requirements of the Public Safety Personnel Retirement System, and the qualifications and standards provided in the official class specifications and examination announcements and provisions of the Resolution

and these Rules. All applicants must possess qualifications of good character, temperate habits, sound health, physical ability and mental ability to perform successfully the duties of the position. In no case shall admittance to the examination constitute assurance of a passing rating on either qualifications or evaluation of training and experience.

- D. Temporary Waiving of Educational Requirements: Any applicant who does not meet minimum educational requirements for the position, but who will meet these requirements as a result of the completion of further education for which he is scheduled for the then current school term, may be allowed to take the examination. A successful applicant taking the examination under this provision shall have his name entered on the register in the same manner as other successful applicants, and his name may be certified for appointment. When appointed, he must furnish the Commission acceptable evidence of his qualifications before the effective date of the appointment. Failure to complete the required educational work will cause the removal of the applicant's name from the register or the cancellation of his appointment.
- E. Disqualification of Applicants: The Commission shall refuse to examine an applicant, or after examination, shall disqualify such applicant or remove his name from the register or refuse to certify any eligible on a register, or may consult with the appointing authority in taking steps to remove a person already appointed if it is found that:
1. He does not meet any one of the preliminary requirements established for the examination for the class of position; or
  2. He is so disabled as to render him unfit for performance or unsafe to himself or other workers or the public in performing the regular duties of the class; or
  3. He is addicted to the use of narcotics or the habitual use of intoxicating liquors to excess; or
  4. He has made a false statement of material fact in his application; or
  5. He has used or attempted to use political pressure or bribery to secure an advantage in the examination or in the appointment to a position in the Department; or
  6. He has directly or indirectly obtained information regarding the examination to which, as an applicant, he was not entitled; or
  7. He has failed to submit his application correctly or within the prescribed time limits; or
  8. He has taken part in the compilation, administration, or correction of the examination for which he is an applicant; or
  9. He has previously been dismissed from a position in the county service for cause; or
  10. He has been convicted of a felony, or misdemeanor involving moral turpitude; or

11. He has been convicted of any crime involving the use of narcotics or habit forming drugs; or
12. He is charged with or under indictment for any crime which upon conviction would cause denial of eligibility under this Rule; or
13. He otherwise has willfully violated the provisions of the Resolution or these Rules.

#### **4.03 NATURE OF EXAMINATIONS**

- A. The entrance tests shall be of such character as to determine qualifications, fitness and ability of the person tested to perform the duties of an entrance level employee.
- B. The tests may be written, oral, physical, or in the form of a demonstration of skill or polygraph or any combination of such types.
- C. Objectivity of Ratings: All examinations, evaluations, ratings and other selection devices or items shall be rated impartially.
- D. Conduct of Examinations: Examinations shall be conducted in as many places in the County as necessary. The convenience of applicants and the relationship of this to local needs shall also be considered. The Commission may designate proctors or examiners in various parts of the County and in various agencies when practical and necessary to administer examinations locally and under procedures prescribed by them.
- E. Open Competitive Examinations: Open competitive examinations for entrance into the classified service shall be conducted for all applicants who meet the requirements for examinations.
- F. The oral part of the examination shall be conducted and a proposed rating made by a panel of three individuals selected by the Commission at least one of which shall be from the appointing authority. Any member of an oral examination panel who is related to the applicant or for any other valid reason shall disqualify himself.

#### **4.04 EVALUATING RESULTS AND RATING EXAMINATIONS**

In any entrance examination, the minimum rating or standing through which eligibility on a register may be earned shall be determined by the Commission, with the use of norms and standards. Such final rating shall be based upon a weighted average of the various parts of the examination. All applicants for the class for which the examination was announced shall be accorded fair and equal treatment in all phases of the examination.

#### **4.05 REFERENCE CHECKS AND INVESTIGATIONS**

The Commission may check references and investigate the candidate's education and work history. If the results of these checks and investigations bring out information affecting the rating in any examination, the Commission may re-rate or disqualify the applicant according to the new information and will notify the applicant of any charge.

#### **4.06 NOTICE OF EXAMINATION RESULTS**

Written notice shall be given to each applicant of his final rating as soon as possible after the rating has been completed.

#### **4.07 RETAKING EXAMINATIONS**

Examinations may not be retaken for a period of ninety calendar days from date of examination. In each case of a repeated examination, the most recent test score achieved shall be used to place the eligible's name on the register.

#### **4.08 INSPECTION OF EXAMINATION**

- A. Examination papers shall be open to inspection only as provided by these Rules.
- B. Request to inspect examination papers shall be made in writing to the Commission within 30 days after notice of the final rating has been given to the applicant.
- C. The applicant may compare his answer sheet for any written test with the scoring key at such location and with such security procedures as may be designated by the Commission for the purpose of determining whether his answers have been accurately scored. Such inspection shall be under the supervision of a Human Resources Department staff member or other authorized representative. Answer sheets for copyrighted or standardized examinations may be excluded by the Commission from such inspection. Any applicant who reviews his test papers with a score key must wait ninety days from that time before retaking a written test where the same test materials are to be used.
- D. Only an applicant or the applicant's attorney or representative with the applicant's written authorization, or the appointing authority to whom an eligible has been certified, may inspect an applicant's examination papers.

#### **4.09 ADMINISTRATIVE REVIEW**

The Commission shall provide an administrative review of an applicant's examination score or rating or disqualification, if any, upon written request from the applicant stating the reasons therefore.

#### **4.10 ADJUSTMENT OF ERRORS**

- A. A manifest error in the rating of an examination, if called to the attention of the Commission within thirty days after receipt by the applicant of notice or rating, shall be corrected by the Commission provided, however, that such correction shall not invalidate any certification and appointment previously made.
- B. If a manifest error is found in the testing procedure for entrance examinations, the Commission may void the examination and make any necessary corrections. All applicants who took the voided examination for entrance shall be afforded the opportunity to participate in a new or corrected examination, such error shall not invalidate any appointment previously made.

#### **4.11 VETERANS PREFERENCE**

- A. A veteran, as defined in Rule 1.53, shall be eligible to apply for and receive employment in the Department regardless of age, if otherwise qualified, subject only to the requirement that he is below the regular retirement age at the time of entering County employment.
- B. A veteran, as defined in Rule 1.53, who has been separated following more than six months of active duty and takes an examination for entrance into the Department for which the establishment of a register may be necessary, shall in the determination of his final rating be given a preference of 5 points over other eligibles. If such veteran has a service-connected disability and is receiving compensation or disability retirement benefits, he shall be given a preference of 10 points over other eligibles. Such preference is to be added to the final rating earned by him on the examination, but only in the event he earns a passing grade or rating on such examination without the addition of such preference. Such veteran's preference shall be applied to original entrance examination scores and not to promotional examinations.

#### **4.12 ENTRANCE EXAMINATION RECORDS**

The Commission shall be responsible for the maintenance of all records pertinent to selection and examination programs. Applications and other records shall be kept during the life of the register or as long as may be required by law but not less than one year.

## **RULE 5 - REGISTERS**

### **5.01 RESPONSIBILITY FOR MAINTENANCE OF REGISTERS**

It shall be the duty of the appointing authority to notify the Commission as far in advance as possible of vacancies or anticipated vacancies and to cooperate in manpower forecasting and planning and turnover analysis studies. The Commission shall be responsible for the establishment and maintenance of appropriate registers for all classes and for the determination of the adequacy of existing registers.

### **5.02 OPEN COMPETITIVE REGISTERS**

After each entrance examination, the Commission shall prepare a register or merge the names of the new eligibles with those on the existing register. In the case of open continuous recruitment, registers may be amended continuously. The names of eligibles shall be placed continuously on registers in the order of their final composite scores in the examination. Eligibles may obtain their relative position on a register by requesting such information in the manner prescribed by the Commission.

### **5.03 DURATION OF REGISTERS**

- A. A promotional register shall expire at the end of one year from the time of its establishment unless the register is specifically extended by the Commission for a period not to exceed one year unless no promotions have occurred from the register. If no promotions have occurred from the register, the Commission may extend the register for up to two additional years. The Commission may abolish a promotional register at any time in the event of a new examination, changes in the class duty or requirements, or whenever an existing register has ceased to meet the needs for adequate placement in the Department.
- B. The life of entrance registers for classes for which continuous recruitment and examinations are conducted shall be indefinite, but may be terminated by the Commission at any time in order to use new examinations, or meet needs of changed class, duty or requirement concepts. Names of eligibles will be removed from open continuous registers after one calendar year from the date they were placed on the register.

### **5.04 NOTIFICATION OF REMOVAL**

When any register is abolished or any eligible is removed from a register, all eligibles affected shall be notified of such abolishment or removal.

### **5.05 REMOVAL OF NAMES FROM THE REGISTER**

The Commission may remove the name of an eligible from any register at any time for any one of the following reasons:

- A. Any of the reasons specified in Rule 4.02 E.;
- B. When the eligible cannot be located despite reasonable efforts to locate him by the appointing authority or the Commission;



- C. Receipt by the Commission or the appointing authority of any written or oral communication from the eligible that he no longer desires consideration for a position in the class or is no longer available for appointment;
- D. Written refusal or rejection by the eligible of an offer of probationary appointment to the class for which the register was established;
- E. The probationary appointment of the eligible to a position in the Department provided, however, that the name of such eligible shall not be removed from any other register with a higher salary grade.

#### **5.06 REEMPLOYMENT REGISTER**

Any covered employee with regular status who has been separated as a result of a formal lay off in accordance with these Rules shall be entitled within three months from the date of separation, upon written request, to have his name placed on the reemployment register for the same or lower grade class for which he qualified. His name shall remain on such reemployment register for a period of one year from the date of his separation. Former covered employees shall be ranked by the Commission on a reemployment register on the basis of seniority with continuous service in the Department. Performance evaluation reports shall be utilized in the case of ties.

#### **5.07 PROMOTION REGISTERS**

Applicants who have attained regular status, meet the necessary minimum requirements, and have passed the appropriately announced promotional examination, will be placed on a promotional register in the order of their respective relative ratings.

#### **5.08 ORDER OF USE OF REGISTERS**

In filling vacancies from registers, the following order of preference of register shall be followed:

- A. First, the reemployment register for laid off covered employees of the Department with the vacancy to be filled.
- B. Second, the promotional register.
- C. Third, the open competitive register.

## **RULE 6 - CERTIFICATION AND SELECTION OF ELIGIBLES**

### **6.01 REQUEST FOR CERTIFICATION OF ELIGIBLES**

The appointing authority shall request certification of eligibles in order to fill vacant positions in the Department by submitting an official request on the form and in the manner prescribed by the Director.

### **6.02 CERTIFICATION OF ELIGIBLES**

- A. Upon receipt of request from the Department, the Director shall certify in the order of their relative excellence on the examination, and submit to the appointing authority, the top five names of available eligibles for the appointment.
- B. If more than one position is to be filled in the same class in an agency at the same time, the number of names certified shall be equal to the number of positions to be filled plus four.

### **6.03 SELECTION OF ELIGIBLES**

- A. In each case of certifications from open competitive, promotional, and reemployment registers, the appointing authority's selection must be from among one of the top five eligibles certified, unless eliminated for cause, in which case a new list will be certified.
- B. Eligibles certified should be contacted by the appointing authority in order to make the best selection.
- C. The final selection by the appointing authority shall be reported in writing on the forms prescribed by the Director. The appointing authority shall indicate the action taken on each eligible certified and shall forward to the Director for permanent record all evidence of non-availability and any other materials concerning the eligibles.

### **6.04 LIFE OF CERTIFICATION**

- A. The life of a certification during which action may be taken shall be fixed by the Director giving consideration to the area, type of position, and other factors, but in no case shall it be over thirty calendar days from the date of issue.
- B. Any appointment made during the life of a certification as indicated thereon shall not be subject to any change in the condition of the register taking place during that period.

### **6.05 AVAILABILITY OF ELIGIBLES**

Once qualified, eligibles will be certified on the basis of their indicated availability for employment consideration. It shall be the responsibility of eligibles to notify the Director in writing of any change of address or other change affecting availability for appointment. An eligible may request that his name be placed in an inactive status for a compelling reason as determined by the Director, and not certified until return to an

active status, but in so doing, his eligibility will not be extended beyond the one calendar year term.

**6.06 TIES FOR CERTIFICATION**

When two or more composite scores are identical, the eligibles will be certified as one name and so indicated on the certification.

## **RULE 7 - TYPES OF APPOINTMENT**

### **7.01 FILLING OF VACANCIES**

All vacancies in the classified service which are not filled by promotion, or demotion, shall be filled by probationary appointment or reemployment.

### **7.02 PROBATIONARY APPOINTMENT**

The appointment to a regular position through certification in accordance with these Rules from an open competitive register shall constitute a probationary appointment.

### **7.03 EMERGENCY APPOINTMENT**

The appointment of an employee without regard to the examination requirements of these Rules to a position by reason of a governmental emergency as declared by the Board or the Governor of the State of Arizona that a state of emergency, disaster or grief exists shall constitute an emergency appointment. An emergency appointment may not exceed thirty working days in duration and is non-renewable. Emergency appointments shall have the prior approval of the Commission except for night, or weekend, or holiday emergencies which will be reported to the Commission the following working day.

### **7.04 REEMPLOYMENT**

The appointment of a person who was a former regular status employee who was laid off by reasons of lack of funds or work, curtailment of program, or other reason and through no fault of his own shall constitute reemployment. A person so reemployed shall be subject to the successful completion of their probationary period unless previously completed in accordance with these Rules.

### **7.05 REINSTATEMENT**

The appointment to the classified service within one year from date of separation of a former regular status law enforcement employee who resigned in good standing, as evidenced by a performance evaluation of "meets standards" and a review of the individual's Personnel File, shall constitute reinstatement. Such employees may be reinstated to the position of Deputy Sheriff at a rate not to exceed the salary rate they were receiving at the time of resignation. Former employees who resigned from a higher sworn job classification within the Deputy series may only be reinstated to the position of Deputy Sheriff; however, at the discretion of the appointing authority, their beginning salary may be adjusted to the top of the current pay grade for Deputy Sheriff.

## **RULE 8 - PROBATIONARY PERIOD**

### **8.01 NATURE, DURATION AND PURPOSE**

- A. The probationary period shall be utilized for the effective adjustment of a new covered employee and for the elimination of any covered employee whose performance does not, in the judgment of the appointing authority, meet the required standard of performance.
- B. The probationary period for an entry level employee shall be one year. If in the judgment of the appointing authority, the employee does not meet the required performance standards, the appointing authority may extend the probationary period an additional six months. The employee must be given written notice of the action taken by the appointing authority prior to the expiration of the established probationary period or the employee will be considered to have successfully completed the probationary period.
- C. Time taken as paid vacation, paid sick leave, paid compensatory time, while working in a light duty status, while on an unpaid leave of absence, or while absent due to an industrial injury or illness, not in excess of twenty (20) working days, shall be counted as time served toward completion of the probationary period. If the amount of time taken exceeds twenty (20) working days, the entire period of time may be added to the probationary period.
- D. The probationary period for a regular employee who has been promoted shall be six months unless extended by the Sheriff for not more than six months.

### **8.02 CONDITIONS PRELIMINARY TO REGULAR STATUS**

- A. The appointing authority shall evaluate a probationary covered employee and submit a report to the Commission on a form prescribed by it at least fifteen days prior to the expiration of the covered employee's probationary period.
- B. If the appointing authority determines at any time during the probationary period that the services of an entry level probationary covered employee are unsatisfactory, the covered employee may be separated upon written notice by the appointing authority. Unless the appointing authority recommends the probationary covered employee for regular status, the probationary covered employee shall be separated automatically at the expiration of his probationary period.

## **RULE 9 - PROMOTION, SPECIAL ASSIGNMENT AND DEMOTION**

### **9.01 PROMOTION**

- A. Vacancies shall be filled by promotion from within the Department whenever possible. Promotions shall be based on competitive examinations and shall be made in accordance with A.R.S. § 38-1001 et seq. and procedures established in these Rules.
- B. A covered employee who is promoted shall be required to serve a probationary period as provided in these Rules.
- C. Covered employees with regular status may be appointed to non-elected, unclassified positions within the Department in which case the covered employee is considered on management assignment while in the special role until such time as the assignment concludes.

### **9.02 PROMOTION ANNOUNCEMENTS**

- A. Competitive Promotional Announcements: Announcements for promotional exams will be issued for each examination and shall be posted in work areas of the Sheriff's Office (no less than twenty (20) calendar days). Every reasonable effort shall be made to attract qualified persons to compete in the examination.
- B. Content of Promotional Examination Announcements: The promotional announcement of examinations shall specify the official title and/or rank, salary range, typical duties to be performed (or where this information may be obtained), the minimum qualifications and any special qualifications, the final date for receipt of applications, the nature of the examination, how to apply and the times and places of examinations subject to the Resolution and these Rules.

### **9.03 PROMOTIONAL APPLICATIONS**

- A. Official Forms: All applications shall be on the forms prescribed by the Director and with an affidavit that the application and all attachments are true and correct.
- B. Filing Applications:
  - 1. Applications for promotional examinations must be filed as designated in the announcement on or before the final filing date specified in the announcement.
  - 2. The Director may require applicants to furnish such evidence as the Director may deem necessary to confirming applicants meet qualifications and standards. Such evidence shall be furnished by the applicants at their own expense.
- C. Qualifications: Promotional examinations shall be open to all applicants who meet the job-related, non-discriminatory qualifications and standards provided in the examination announcement and provisions of the Resolution and these Rules. All applicants must possess the knowledge, skills, abilities and other job-related characteristics required to successfully perform the duties of the position.

In no case shall admittance to the examination constitute assurance of a passing rate on either qualifications or evaluation of training and experience.

- D. Temporary Waiving of Educational Requirements: Any applicant who does not meet minimum educational requirements for the position but who will meet these requirements as a result of the completion of further education for which he is scheduled for the then current school term may be allowed to take the examination. Successful applicants taking the examination under this provision shall have their names entered on the register in the same manner as other successful applicants and their names may be certified for appointment. When appointed, they must furnish the Director acceptable evidence of the qualifications before the effective date of the appointment. Failure to complete the required educational work will cause the removal of the applicant's name from the register or the cancellation of the appointment. Any applicant affected by this Rule will not in any case be extended beyond the life of the register.
- E. Disqualification of Applicants: The Director shall refuse to examine an applicant, or after examination, shall disqualify such applicant or remove the applicant's name from the register or refuse to certify any eligible on a register, or may consult with the appointing authority in taking steps to remove a person already appointed if it is found that the applicant:
1. Does not meet any one of the preliminary requirements established for the examination for the position; or
  2. Has a sustained Category 6 or 7 violation as defined by the matrices set forth in the Department's current Employee Disciplinary Procedures policy in effect at the time of application; or
  3. Is unfit for performance or unsafe to themselves, other workers or the public in performing the regular duties of the position; or
  4. Is addicted to the use of narcotics or the habitual use of intoxicating liquors to excess; or
  5. Has made a false statement of material fact in their application; or
  6. Has used or attempted to use political pressure or bribery to secure an advantage in the examination or in the appointment to a position in the Department; or
  7. Has directly or indirectly obtained information regarding the examination to which, as an applicant, he/she was not entitled; or
  8. Has failed to submit his application completely, correctly or within the prescribed time limits; or
  9. Has taken part in the compilation, administration, or correction of the examination for which he/she is an applicant; or
  10. Has previously been dismissed from a County position for cause; or
  11. Has been convicted of a felony, or misdemeanor involving moral turpitude; or
  12. Has been convicted of any crime involving the use of narcotics or habit-forming drugs; or

13. Is charged with or under indictment for any crime which upon conviction would cause denial of eligibility under this Rule; or
14. Otherwise has willfully violated the provisions of the Resolution or these Rules.

#### **9.04 NATURE OF EXAMINATIONS**

- A. Content and Nature of Promotional Examinations: Promotional examinations shall be of such character as to determine the experience, education, , record of performance, , fitness and conduct within the field of law enforcement, skill and ability of the person examined to perform the duties of the position for which a list is to be established.
- B. Content of Examinations: Promotional examinations and weights for each phase shall be established by the Commission and published as part of the announcement of the examination. All examinations or combinations of examinations will meet Federal selection procedure guidelines of validity at such time as they are administered.
  1. Written examinations used as part of the examination process shall be job related to fairly test and determine the qualifications, knowledge, skill and ability of competitors to actually perform the duties of the position for which they seek promotion.
  2. Training and experience evaluations used as part of the examination process shall be job related to determine the amount and quality of service in the Department and measure education and training relating to law enforcement.
  3. Oral examinations used as part of the examination process shall be structured and job related. Oral examinations shall be conducted and recorded, and a rating made on forms prescribed by the Director by a panel of three qualified individuals, recommended by the Department for approval by the Commission. The panel shall consist of a Department representative to serve as panel chairman, a second representative from the Department, and a third representative from another law enforcement agency. Any member of an oral examination panel who is related to an applicant being interviewed or who has any other valid reason shall disqualify them self.
  4. Performance appraisals that at least "meet minimum requirements" as the overall rating are required for the employee's last two years of service for the employee to be eligible to participate in a promotional examination.

#### **9.05 REFERENCE CHECKS AND INVESTIGATIONS**

The Director may check references and investigate the candidate's education and work history. If the results of these checks and investigations reveal information affecting the rating in any examination, the Director may re-rate or disqualify the applicant according to the new information and will notify the applicant of any change.



### **9.06 NOTICE OF EXAMINATION RESULTS**

Written notice shall be given to each applicant of their final rating as soon as possible after the rating has been completed.

### **9.07 RETAKING EXAMINATIONS**

Examinations may not be retaken for a period of ninety (90) calendar days from date of examination. In each case of a repeated examination, the most recent test score achieved shall be used to place the eligible's name on the register.

### **9.08 INSPECTION OF EXAMINATION**

- A. All examination records shall be open to inspection only as provided by these Rules.
- B. Request to inspect examination records shall be made in writing to the Director within fourteen (14) calendar days after notice of the final rating has been given to the applicant.
- C. The applicant may compare his answer sheet for any written test with the scoring key at such location and with such security procedures as may be designated by the Director for the purpose of determining whether his/her answers have been accurately scored. Such inspection shall be under supervision of a Human Resources department staff member or other authorized representative. Answer sheets for copyrighted or standardized examinations may be excluded by the Director from such inspection by the applicant but may be reviewed by the examination monitor in accordance with these Rules. Any applicant who reviews their test papers with a score key must wait ninety (90) calendar days from that time before retaking a written test where the same test materials are to be used.
- D. Only an applicant or the applicant's attorney or representative with the applicant's written authorization, or the appointing authority to whom an eligible has been certified, may inspect an applicant's examination papers.

### **9.09 ADJUSTMENT OF ERRORS**

- A. A manifest error in the rating of an examination, if called to the attention of the Commission within thirty (30) calendar days after receipt by the applicant of notice of rating, shall be corrected by the Commission.
- B. If a manifest error is found in the testing procedure for promotional examinations, the Commission may void the examination and make any necessary corrections. All applicants who took the voided examination for promotion shall be afforded the opportunity to participate in a new or corrected examination.

### **9.10 ADMINISTRATIVE REVIEW**

The Commission shall provide an administrative review of an applicant's examination score or rating or disqualification, if any, upon written request received from the

applicant within fourteen (14) calendar days of the applicant's receipt of the score, rating or disqualification and stating the reasons therefore.

### **9.11 PROMOTIONAL EXAMINATION RECORDS**

The Director shall be responsible for the maintenance of all records pertinent to selection and examination programs. Applications and other records and recordings shall be kept during the life of the register or as long as may be required by law but not less than one (1) year.

### **9.12 EXAMINATION MONITOR**

- A. An examination monitor shall confirm that all examination grading is accomplished in accordance with these Rules.
- B. Prior to publication of an examination announcement, the Department shall submit to the Commission for approval a list of five (5) recommended persons to serve as monitors for each announced examination.
- C. The Director shall advise the Department at least thirty (30) minutes prior to the beginning of any grading or evaluating procedure.
- D. In the event the grading or evaluating procedure cannot be completed in one continuous session;
  - 1. The Director shall advise the Department at least thirty (30) minutes prior to each grading or evaluating session.
  - 2. If the monitor does not appear within the thirty (30) minute period the grading or evaluation may proceed without the presence of the monitor.
  - 3. Grading or evaluation completed without the monitor present shall be available for review by the monitor.
- E. In the event the monitor believes that deviation from the proper grading or evaluating procedure has occurred;
  - 1. The monitor shall inform the grader or evaluator of the suspected deviation. The monitor and the grader shall attempt to resolve the problem. If the problem cannot be resolved by the grader and the monitor, the procedure shall be set aside. Grading or evaluation may continue on the other examinations.
  - 2. The monitor shall submit a written report as soon as possible to the Director and the Sheriff, stating why he/she believes the proper grading or evaluation procedure has not been followed.
  - 3. The Director and the Sheriff shall as soon as possible attempt to resolve the problem.
  - 4. In the event the alleged deviation cannot be resolved by the Director and the Sheriff, the examination in question shall be submitted to the Commission. The Commission shall review the problem in conjunction with the Director and the Sheriff and render a decision. The Commission's decision shall be final and binding on all parties.

### **9.13 DEMOTION**

- A. Until a covered employee who has been promoted has successfully completed the prescribed probationary period, he/she may be returned or demoted to his/her former or like position and shall have no right to appeal such demotion.
- B. A covered employee may be demoted for cause or as otherwise provided by the Resolution and these Rules after the appointing authority has furnished the covered employee with specific reasons for such demotion in writing. The appointing authority shall include in the written statement to the covered employee a notice of his/her right to appeal in writing to the Commission.
- C. If, for personal or other reasons, a covered employee requests in writing that he/she be assigned to a position of a lower class, the appointing authority may make such a demotion. In such cases, the demotion will be deemed to have been made on a voluntary basis and there shall be no right of appeal. A copy of the covered employee's written request shall be filed with the Director by the appointing authority for inclusion in the employee's official personnel file.

### **9.14 DETAIL TO MANAGEMENT PROFESSIONAL ASSIGNMENT**

To fill a role equivalent to Deputy Chief or higher, a special assignment by the appointing authority may be made from among covered employees at the rank of Captain. An employee so assigned shall retain the previously held rank in the classified service. Upon being returned from special assignment by the appointing authority, the employee shall return to the former rank in the classified service and the pay rate previously held, adjusted to reflect any percentage of increase authorized for performance increase, cost-of-living adjustment or range adjustment during special assignment. This section does not apply to the two at-will Chiefs equivalent to a Deputy Chief or above exempted by Rule 2.03. This section applies to the Chief Deputy only if the Chief Deputy is appointed among the covered employees at the rank of Captain or above. Any other Chief Deputy appointment will result in the position being at-will, and exempted from these rules.

## **RULE 10 - SEPARATIONS AND DISCIPLINARY ACTIONS**

### **10.01 GENERAL PROVISIONS**

Except as otherwise provided in these Rules, the tenure of a covered employee with regular status shall continue during good behavior and the satisfactory performance of his duties.

### **10.02 LAYOFFS**

- A. The appointing authority may lay off a covered employee in the Department whenever it is necessary by reason of shortage of funds or work, or by reduction of the statutory duties of the Sheriff.
- B. When a layoff is deemed necessary by the appointing authority, he will notify the Commission, which will establish in consultation with the appointing authority the order of preference of layoff for as many covered employees as are to be separated. In any event, the Commission will attempt to obtain a transfer of the covered employees to be laid off to other vacancies in the County Service.
- C. No covered employee with regular status is to be separated by layoff while there are emergency or probationary covered employees serving in the agency in the same, or equal or lower level positions for which such regular status covered employee or employees are qualified and available for reassignment.
- D. In determining the order of layoff of covered employees with regular status, the Commission shall consider on a consistent and equitable basis of seniority. Performance appraisals shall be used in the event of ties.

### **10.03 DISMISSALS**

- A. The appointing authority may remove any covered employee with regular status only for cause as provided in the Resolution or in Rule 14, but not before furnishing the Clerk of the Board, the covered employee and the Commission personally or by registered mail with a written statement of the statutory or other grounds and the specific reasons for dismissal in sufficient detail to apprise the covered employee of the facts. The appointing authority shall include in the written statement to the covered employee notice of the covered employee's right to appeal in writing to the Commission within ten business days from the date of notice of dismissal. The provision shall not, however, be construed as precluding the appointing authority from relieving a covered employee immediately from his official position or from excluding him from his post or place of duty or employment pending preparation and giving notice of dismissal, but no pay shall be withheld for such period.
- B. A covered employee with regular status may appeal his dismissal as provided in these Rules.
- C. At any time before receiving the Commission's notice of the time and place of the hearing, the appointing authority may serve on the covered employee and file with the Commission an amended or supplemental notice or statement of

dismissal. If the amended or supplemental notice states new causes, the Commission may grant the covered employee's request for a continuance of the hearing for a reasonable time to allow the employee to prepare his case.

#### **10.04 SEPARATION OR DISMISSAL DURING PROBATIONARY PERIOD**

- A. An employee may be separated at any time during the initial probationary period without the right of appeal. However, in any case of suspension, dismissal or demotion during an employee's initial probationary period, the Director may investigate the circumstances and causes for the action taken.
- B. A promotional probationary employee, who fails to satisfactorily complete the promotional probationary period, may, without right of appeal, revert to a position of the class previously occupied or to another suitable position; and in accordance with Rule 9.13 A., has the same rights of review as set forth in "A" above. A promotional probationary employee, who is suspended or dismissed, has the right of appeal.

#### **10.05 RESIGNATIONS**

A covered employee who desires to terminate his service with the county shall submit a written resignation to the appointing authority at least ten calendar days prior to the effective date of the resignation.

#### **10.06 RETIREMENT**

If a covered employee with regular status is retired as provided under the Public Safety Personnel Retirement System, he is deemed to be separated without prejudice and does not have the right to appeal to the Commission.

#### **10.07 SUSPENSIONS**

- A. The appointing authority may as a disciplinary action suspend any covered employee for cause with or without pay. A regular status covered employee may be suspended only by written order from the appointing authority stating specifically the reasons for the action and duration of the suspension. The order must be delivered personally or sent by registered mail to the covered employee within three calendar days of the effective date of such suspension and a copy filed with the Clerk of the Board and the Commission.
- B. Except as otherwise provided by Resolution, or in these Rules, suspensions shall not exceed thirty consecutive calendar days for any single cause of suspension.
- C. A covered employee with regular status may appeal his suspension as set forth in the Resolution or these Rules.

## **RULE 11 - APPEALS**

### **11.01 MATTERS WHICH MAY BE APPEALED**

A covered employee in the classified service who has attained regular status may appeal within ten (10) calendar days of receipt of a written order from his or her appointing authority for dismissal, demotion or suspension or pursuant to Section 16.H of the Resolution.

### **11.02 APPEAL**

Every appeal to the Commission must be filed in writing through the Director. It shall state the facts upon which it is based and the action requested of the Commission. The appeal shall provide in sufficient detail the necessary facts and identity of all persons or agencies concerned in a manner that the Commission may understand the nature of the proceeding and appeal. Unless the appeal names some other respondent, the appellant's appointing authority shall be considered the only respondent. The Commission shall serve a copy of the appeal on the respondent.

### **11.03 ANSWER**

No answer to the appeal need be filed by the respondent. If an answer is filed prior to the hearing, a copy thereof shall be sent by the Commission to the appellant. If no answer is filed, every relevant and material allegation of the appeal is in issue, but in any case, irrelevant and immaterial issues may be excluded.

### **11.04 HEARING OFFICERS**

Any appeal may be assigned by the Commission or its chairman to a hearing officer for hearing. When an appeal is assigned to a hearing officer, he shall be the authorized representative of the Commission (in accordance with Rule 11.07) and is fully authorized and empowered to grant or refuse extension of time, to set such proceedings for hearing, to conduct the hearing, to take any action in connection with the proceedings which the Commission itself is authorized to take by law or by these Rules other than making the final findings of fact, conclusion of law, and order. No assignment of an appeal to a hearing officer shall preclude the Commission or its chairman from withdrawing such assignments and conducting the hearing itself or from reassigning an appeal to another hearing officer.

### **11.05 TIME FOR HEARING**

Every hearing on an appeal shall commence no sooner than thirty-five (35) calendar days from receipt by the Commission unless the time is shortened by mutual consent of the appellant and respondent.

### **11.06 NOTICE OF HEARING**

Written notice of time, date, place of hearing of an appeal, and of the name of the hearing officer, if any, shall be served by the Commission on the appellant and the

respondent at least seven (7) calendar days before the date of such hearing. This notice may be delivered personally or by registered mail.

### **11.07 NATURE OF HEARING**

Any party may be represented by himself or legal counsel of his choosing. The hearings shall be informal and technical rules of evidence shall not apply to the proceedings, except that irrelevant, immaterial, incompetent or unduly repetitious evidence or evidence protected by the rules of privilege recognized by law may be excluded. Each party will have a maximum of three and one-half (3.5) hours to present the case including opening statement; direct exam, cross exam, and re-direct/re-cross of witnesses; objections; and closing argument. Time spent on cross examination and re-cross counts against the total time allotted to the party conducting the examination. The Hearing Officer shall have the authority to grant up to an additional seven (7) hours (total) of testimony. The Hearing Officer shall not allow testimony beyond fourteen (14) hours total without prior approval from the Law Enforcement Officers' Merit System Commission chairman or designee. All testimony at the hearing shall be recorded manually or by mechanical device.

### **11.08 EXCLUSION OF WITNESSES**

Upon the motion of any appellant or respondent, the hearing officer, in his discretion, may exclude from the hearing room any witnesses not at the time under examination; but a party to the proceedings, or his attorneys, or other person conducting the case, shall not be excluded.

### **11.09 WITNESSES**

The Commission may request the County Board of Supervisors to issue subpoenas to compel attendance of any person and production of any books or papers relating to any hearing authorized by these rules in accordance with the powers of the Board under A.R.S. § 11-218. Witnesses, other than employees, when subpoenaed to attend a hearing or investigation are entitled to the same fee as is allowed witnesses in civil cases in courts of record. If a witness is subpoenaed by the hearing officer on his own motion, fees and mileage may be paid from funds of the Commission upon presentation of a duly executed claim. If a witness is subpoenaed upon request of the appellant or respondent, the fees and mileage shall be paid by the party requesting the witness. Reimbursement to employees subpoenaed as witnesses shall be limited to payment of mileage by the party requesting him.

### **11.10 DEPOSITIONS**

If a witness does not reside within the County or within one hundred (100) miles of the place where the hearing or investigation is to be held, is out of the state, or is too infirm to attend the hearing or investigation, any party hereto at his own expense may cause his deposition to be taken. If the presence of a witness cannot be procured at the time

of hearing or investigation, his deposition may be used in evidence by either party or the Commission.

#### **11.11 PROPOSED FINDINGS OF FACT**

Both appellant and respondent shall have the right to file with the Commission or its hearing officer, if any, on or before the date of the hearing, proposed findings of fact. In the event such proposed findings of fact are filed by either or both parties, the written findings of fact of the hearing officer and the Commission shall include a ruling upon each such finding proposed by the appellant and the respondent.

#### **11.12 DUTIES OF THE HEARING OFFICER**

In all cases assigned to hearing officers for hearing, they shall prepare proposed findings of fact and conclusions of law in such form that they may be adopted as the Commission's findings and conclusions in the case, except as otherwise directed by the Commission. A copy of the proposed findings and conclusions shall be filed by the hearing officer with the Commission within twenty (20) calendar days from the last date of the hearing, unless extended by prior approval of the Chairman or designee. The hearing officer may be present during the consideration of the case by the Commission, and, if requested shall assist and advise the Commission.

#### **11.13 FILING OF WRITTEN OBJECTIONS**

Both appellant and respondent shall receive copies of the findings of fact, conclusions of law and recommendations of the hearing officer. The parties shall have fourteen (14) calendar days from the receipt of the hearing officer's report to file with the Merit Commission any written objections (not post-hearing evidence) they might have concerning the hearing officer's report. A copy of the written objections is to be served upon other interested parties.

#### **11.14 FINDINGS OF FACT; CONCLUSIONS OF LAW; AND ORDER**

The Commission shall upon receipt of the Hearing Officer's Report and written objections make written findings of fact, conclusions of law and issue an order as soon as practicable at a scheduled Commission meeting. A copy shall be sent by certified mail to the appellant and the respondent at the addresses given at the hearing or to a representative designated to receive same, or hand delivered to both parties. In the event the Commission orders the respondent to reinstate the appellant, it may also order the respondent to reinstate the appellant with or without back pay for such period and in such amounts as the Commission deems proper under the circumstances;

#### **11.15 WITHDRAWAL OF AN APPEAL**

The appellant may submit a written request to withdraw an appeal at any time prior to the decision by the Commission.



### **11.16 DECISION BY COMMISSION**

Upon filing of the proposed findings, conclusions and recommendations of the hearing officer and any written objections by the parties, the Commission may adopt the hearing officer's report in its entirety, or modify it, or may itself decide the case upon the record, including the transcript with or without taking additional evidence, or may refer the case to the same or another hearing officer to take additional evidence. If, after the hearing, a majority of the Commission members present at the meeting where the vote is taken, determine that the action appealed from was arbitrary or taken without reasonable cause, the appeal shall be sustained; otherwise, the appeal shall be dismissed. The Commission shall have the power to direct an appropriate remedial action and shall do so after taking into consideration just and equitable relief to the covered employee in the best interest of the County and the public.

### **11.17 COMPLIANCE OF APPOINTING AUTHORITY**

Within thirty-five (35) calendar days of a decision by the Commission sustaining an appeal, the appointing authority of the covered employee shall take such measures as are necessary to comply with the remedial action directed by the Commission and shall render a report of such measures to the Director as ex-officio clerk of the Commission. The findings and decisions of the Commission shall be final and shall be subject only to administrative review as provided in ARS § 38-1004.

## **RULE 12 - CLASSIFICATION PLAN**

### **12.01 CLASSIFICATION PLAN**

- A. Nature: The Classification Plan, as approved and adopted by the Commission upon recommendation of the Director, shall include for each non-exempt class of positions an appropriate title and a class specification.
- B. Changes in Plan: From time to time as necessary, the Commission may classify or reclassify all positions and fix and refix standards and qualifications of all positions so classified. Where any such action is taken, the Commission shall determine in each instance whether the positions affected are to be reallocated to another class or classes after taking into consideration the duties and responsibilities, qualifications, performance standards, and other related criteria before and after the change. All proposed changes shall be placed on the Commission's agenda.

### **12.02 INTERPRETATION OF CLASS SPECIFICATIONS**

- A. Nature and Interpretation of Class Specifications: Class specifications are descriptive and explanatory and are not restrictive. They are designed to indicate the kinds of positions which should be allocated to the several classes as determined by their duties or responsibilities and shall not be construed as describing what the duties or responsibilities of any particular position shall be. The use of an individual expression or illustration as to duties or responsibilities shall not be regarded as excluding assignment of others not mentioned which are similar in kind or quality. The language of class specifications is not intended to be all inclusive or restrictive and is not to be construed as limiting or modifying the authority which the Department has to take from, add to, eliminate entirely, or otherwise change duties and responsibilities, to assign duties or delegate responsibility to covered employees, or direct and control their work. Material and permanent or indefinite changes in the duties and responsibilities of a position must be reported to the Commission.
- B. Minimum Qualifications: Minimum qualifications are comprehensive statements of the minimum background as to education, experience, and other qualifications which will be required in all cases as evidence of an appointee's ability to perform the work properly. When minimum qualifications are increased, the educational requirement shall not act against incumbents of the class as to their eligibility for promotion consideration unless the change specifically establishes a graduate degree, license, registration, board certification or similar evidence of a specific requirement as a qualification for the class; all subsequent applicants for the class must qualify under the changed minimum qualifications. Although not expressed in the class specification, all persons applying for or holding any position in the Department shall be required to meet the following general qualifications: integrity, honesty, sobriety, dependability, industry, thoroughness,

accuracy, good judgment, initiative, resourcefulness, courtesy, ability to work cooperatively with others, willingness and ability to assume and fulfill the responsibilities of the employment, good health, and physical and mental abilities compatible with the work assignment. Where the position requires the driving of a motor vehicle, the applicant or covered employee must have a valid Arizona operator's license and is expected to drive the motor vehicle safely. The foregoing general qualifications shall be deemed to be part of the minimum qualifications of each class specification and need not be specifically set forth therein.

### **12.03 CLASSIFICATION ADMINISTRATION**

- A. Allocation Factors: Every position in the Department shall be allocated by the Commission, after consultation with the Department, to the appropriate class in the Classification Plan. The allocation of a position to a class shall derive from and be determined by the duties and responsibilities of the position and shall be based on the principle that all positions shall be included in the same class if:
  - 1. They are sufficiently similar in respect to duties and responsibilities that the same descriptive title may be used;
  - 2. Substantially the same requirements as to training and experience, knowledge and ability are demanded of incumbents;
  - 3. Substantially the same test of fitness may be used in choosing qualified appointees; and
  - 4. The same schedule of compensation can be made to apply with equity.
- B. Allocation of New Positions: The Commission shall allocate each new position to a class upon receipt of the prescribed form from the agency containing statement of duties, responsibilities, requirements of the position and organization-related materials. The Commission may study the Department to the extent necessary to determine the proper allocation.
- C. Reallocation of Existing Positions: The Commission shall reallocate the classification of an existing position when a material and permanent change in the duties or responsibilities of the position occurs. Such reallocated position will be filled by competitive examination in accordance with the rest of these Rules. In all cases of reallocation of a filled position, the covered employee within the position at the time of reallocation shall be entitled to continue serving at the same status held before the position was reallocated or considered for promotion in accordance with the Resolution and these Rules.
- D. Reviews of Allocations: The appointing authority or any covered employee affected by the allocation or reallocation of a position to a class by the Commission may obtain a review of such action upon filing with the Commission a written request for a review thereof on such forms as the Commission may prescribe.

#### **12.04 CLASSIFICATION CONTROLS**

A position shall have been allocated to a specific class before final administrative action can be taken by an appointing authority on appointment, transfer, promotion, demotion or change in compensation rate, or payment of salary with respect to the position.

#### **12.05 TITLE OF POSITION**

- A. Use of Titles: The class title of a position shall be used to designate such position in all budget estimates, payrolls, or other official records, documents, vouchers, and communications in connection with all personnel processes.
- B. Use of Working Titles: For purposes of internal administration, departmental correspondence or for any other purposes not involving the personnel processes, abbreviations, code symbols or descriptive adjectival titles may be used in lieu of the class titles.

#### **12.06 OFFICIAL COPY OF CLASS SPECIFICATIONS**

- A. Official Class Specifications: The Commission shall maintain a master set of all approved class specifications. Such specifications shall constitute the official class specifications in the Classification Plan. The copies of the specification for each class shall indicate the date of adoption or the last revision of the specifications for such class.
- B. Issuance of Specifications: The Commission shall provide the Department with a set of the appropriate class specifications. Such class specifications in the Department offices, as well as the master set in the Human Resources Department, shall be open for inspection by the employees or the public under reasonable conditions during business hours.

#### **12.07 SUPERVISION OF COVERED EMPLOYEES**

All positions assigned classifications as provided by this Rule shall be supervised by a sworn, paid Law Enforcement Officer or supervised by those positions exempted by Rule 2.03 in all enforcement activities requiring peace officer status.

## **RULE 14 - CODE OF ETHICS**

### **14.01 CONDUCT AND REQUIREMENTS IN GENERAL**

- A. The maintenance of high standards of honesty, integrity, impartiality and conduct by covered employees is essential to assure the proper performance of county business and the maintenance of confidence by citizens in their county government.
- B. Covered employees shall conduct themselves in such a manner that the work of the county is effectively accomplished; they shall be courteous, considerate and prompt in dealing with and serving the public; and shall conduct themselves in a manner that will not bring discredit or embarrassment to the county.
- C. Covered employees shall observe the applicable laws and regulations governing participation in political activities and conflict of interest and shall avoid any discrimination because of race, color, religion, national origin or sex and shall economically utilize, protect and conserve property of Maricopa County entrusted to them and conduct all their official activities in a manner which is above reproach and free from any indiscretions or acceptance of gratuities or favors which cast doubt or suspicion upon themselves or the county department which employees them.

### **14.02 SPECIFIC CONDUCT AND RESPONSIBILITIES**

- A. Official position shall not be used by covered employees for personal gain. Public influence and confidential or "inside" information must never be turned to personal advantage.
- B. Conflict of interest laws must be scrupulously observed. The covered employee must disclose his interest, if any, in the official records of the Department and shall not participate in or vote for any contract, sale, purchase or service in which he has an interest as defined in ARS §38-502.
- C. The covered employee shall not do any work in a private capacity which may be construed by the public to be an official act without prior written approval of the Sheriff.
- D. The covered employee shall not accept or solicit, directly or indirectly, anything of economic value as a gift, gratuity, favor, entertainment or loan which is or may appear to be designed to in any manner influence official conduct, particularly from a person who is seeking to obtain contractual or other business or financial arrangements with the Department or who has interest that might be substantially affected by the performance or non-performance of the employee's duty. This provision does not prohibit acceptance by a covered employee of food and refreshments of insignificant value on infrequent occasions in the ordinary course of a meeting, conference or other occasion where the covered employee is properly in attendance nor the solicitation or acceptance by a covered employee of loans from banks or other financial institutions on customary terms to finance proper and usual activities of the covered employee nor the acceptance of

- unsolicited advertising or promotional material such as pens, pencils, calendars and other items of nominal intrinsic value.
- E. The covered employee shall not directly or indirectly use or allow the use of county property of any kind, including property leased to the county, for other than official approved activities. A covered employee has a positive duty to protect and conserve county property, including equipment, supplies and other property entrusted or issued to him.
  - F. The covered employee must never permit himself to be placed under any kind of personal obligation which could lead any person to expect official favors.
  - G. The covered employee's official acts must reflect impartiality. His decisions and actions must be determined by impersonal considerations, free from any taint of favoritism, prejudice, personal ambition or partisan demands.
  - H. The covered employee shall not engage in outside or other employment or other outside or other activity which is not compatible with the full and proper discharge of the duties and responsibilities of his county employment or which tends to impair his capacity to perform his county duties and responsibilities in an acceptable manner.
  - I. A covered employee shall avoid circumstances that lead to garnishment of his wages. Three unreleased garnishments within a two year period constitute automatic ground for dismissal.

#### **14.03 DISCIPLINARY ACTION OR DISMISSAL**

The appointing authority shall suspend, for not more than thirty consecutive calendar days or dismiss any covered employee who is determined by the appointing authority to have violated any provisions of Rule 14 above.