

## **GRIEVANCE SYSTEM PROCEDURES**

### **SECTION 1. PURPOSE**

10.1.01 The purpose of the grievance procedure is to settle all grievances between the supervisory personnel and employees as quickly as possible and at as low an administrative level as possible so as to assure efficient work operations and maintain employee morale.

### **SECTION 2. ELIGIBILITY**

10.2.01 There are two (2) basic types of grievances; disciplinary action grievances and non-disciplinary action grievances. A disciplinary action grievance is used by an employee who desires to contest disciplinary action taken against him. Disciplinary actions subject to the grievance process as defined by Chapter IX are suspensions, demotions and dismissals. Employees shall not have the right to appeal reprimands. Subject to the provisions of these rules, non-disciplinary action grievance is used by an employee who desires to complain of matters such as working conditions; the application of rules, regulations and procedures; unfair treatment, etc. Any Civil Service protected employee may process a grievance. Disciplinary action grievance shall be filed individually by the disciplined employee or by his representative. Non-disciplinary grievances may be filed individually or jointly by a group of affected employees or by their personnel representatives.

### **SECTION 3. NON-DISCIPLINARY GRIEVANCE PROCEDURES**

- 10.3.01 A grievance may be filed by an eligible employee on one or more of the following grounds:
- A. Improper application of rules, regulations and procedures.
  - B. Unfair treatment, including coercion, restraint or reprisal.
  - C. Discrimination because of race, religion, color, creed, sex, age, national origin, disability, or political affiliation.
  - D. Improper application of benefits or improper working conditions.

### **SECTION 4. FILING AND PROCESSING OF NON-DISCIPLINARY GRIEVANCES**

10.4.01 Step 1.

An employee, or an exclusive agent, if any, having a grievance shall submit it in writing to the Sheriff, within ten (10) working days following actual or constructive knowledge of the alleged act, omission, occurrence or event giving rise to the grievance. The Sheriff shall respond fully in writing filed with the Commission within ten (10) business days. If the grievance is neither (1) granted in writing by the Sheriff (2) abandoned in writing, or (3) resolved by mutual written agreement within ten (10) business days, the grievance will proceed automatically to Step 2.

10.4.02 Step 2.

The Sheriff or his designee will schedule a conference with the grievant or his representative within ten (10) business days of the conclusion of Step 1. If the grievance is not resolved, in writing within thirty (30) days it may proceed to the Commission for a hearing.

## SECTION 5. DISCIPLINARY GRIEVANCE PROCEDURE

- 10.5.01 Every employee has the right to appeal a disciplinary decision, except for those relating to probationary performance rating or dismissal, and may do so by letter within ten working (10) days from the disciplinary action to the Commission. This notice must state the reason for appeal.
- 10.5.02 Upon receipt of the written notice of appeal, the Commission shall conduct any further investigation or hold any hearing relative to the appeal and/or make any decision known, in writing, to the employee.
- 10.5.03 The Commission shall render a final decision to the employee, representative of the employee, if any, and the Sheriff.
- 10.5.04 The employee/employer may appear personally, produce evidence, or call witnesses with the consent of the Commission Chairman. The employee/employer may have counsel present during the Commission hearing. In cases of disciplinary grievances, the burden of proving the charges against the employee shall be upon the Sheriff or his legal representative. The quantum of proof in all cases is a preponderance of evidence.
- 10.5.05 In any investigation or hearing conducted by the Commission, it shall be empowered to issue a subpoena and may thereafter require the attendance of witnesses and the production thereby of books, papers and other evidence pertinent to the hearing. It shall have the power to administer oaths to all witnesses. The Commission may also issue a summons to any Sheriff's Department employee. Such summons will order the employee to appear before the Commission as a witness and will compel the employee to produce pertinent reports, documents and other evidence in their possession. The summons will clearly state the time, date, and place of the hearing as well as the case or subject matter. Failure of the summoned employee to obey the orders without just cause or excuse will result in the Commission taking disciplinary action against the offending employee. Just cause or excuse includes, but is not limited to, documented illnesses or injuries; conflict with a scheduled appearance before a court of law; a prior out-of-town commitment; a personal or family emergency; an unforeseen and unavoidable accident or event preventing attendance; and the emergency needs of the Sheriff's Department in enforcing the law; quelling a disturbance or providing security. An employee receiving a summons who cannot attend the stated hearing, must provide the Commission with adequate notice and explanation in writing as to why attendance is impossible prior to the scheduled date of appearance if that employee is aware of his inability to attend beforehand.
- 10.5.06 If the demoted, suspended or removed employee should be re-instated to his position by order of the Commission, he shall receive full compensation at the rate of pay that was provided for his position at the time of the action. Should the Sheriff refuse to reinstate the employee as order by the Commission, the employee shall be entitled to his full salary just as though he had been reinstated as ordered.
- 10.5.07 If an appeal is upheld by the Commission, the employee may be reinstated and may be granted back pay depending upon the determination of the appeal.
- 10.5.08 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 calendar day after the day the decision is issued. An appeal under this system will be tried de novo.

- 10.5.09 The employee shall be furnished, by personal service or certified mail, a written notice of termination prior to that termination. Such notice shall specify the cause for termination by stating the Civil Service Rules and/or Department Rules violated; the date, time and place that the employee violated the rules; a specific description of the employee's conduct or actions which violated the rules; and the time period and process by which to appeal. If the notice cannot be presented in person to the employee, it should be sent registered or certified mail to the employee's last known address.
- 10.5.10 If a regular employee feels he is being unjustly terminated, he may utilize the Grievance/Appeal System provided he meets the filing deadlines. Utilizing the Grievance System will not alter an employee's termination date.
- 10.5.11 Each statement of discipline shall be signed by the Sheriff.
- 10.5.12 The employee to be disciplined should acknowledge receipt of statement of discipline. Failure of the employee to acknowledge receipt does not affect the imposition of the disciplinary action. Acknowledgment of receipt does not acknowledge agreement.
- 10.5.13 No party may require the attendance of more than three (3) character witnesses without the consent of the commission.
- 10.5.14 The Commission may refer any matter it has authority to hear or consider to a committee of itself, or a hearing officer as hereinafter set forth.

#### **SECTION 6. RECORDS RETENTION**

- 10.6.01 Disciplinary action records against an employee shall be retained in accordance with current state statutes or department policy.

#### **SECTION 7. ACTIONS ON GRIEVED EMPLOYEES**

- 10.7.01 Grievances submitted by an employee on probation will not be used as a factor on retention of that employee.
- 10.7.02 Actions being grieved by an employee may not be used as a factor on promotion, salary increase, or advancement of that employee.