

**DENTON COUNTY
SHERIFF'S OFFICE
CIVIL SERVICE COMMISSION**

**CHAPTER V
APPEALS**

APPEALS

PURPOSE

- 5.1 The purpose of the appeal process is to provide recourse to the disciplinary action procedures outlined in these Civil Service Rules.

APPEAL AUTHORITY

- 5.2 The Sheriff's Office Civil Service Commission will hear appeals related to termination, demotion in rank or compensation, suspension (without pay).
- 5.3 The Sheriff's Office Civil Service Commission will not hear complaints related to salaries, benefit administration and personnel evaluations.
- 5.4 The Sheriff's Office Civil Service Commission will not take jurisdiction over personnel action decisions that are attributable to the elimination of a budgeted position due to reduction in force. Further, the Commission will not take jurisdiction over personnel action decisions that are based on an employee's loss of a required license or certification required to perform the duties of the position, such as loss of valid Texas drivers' license or a law enforcement license or certificate.
- 5.5 The Commission will also entertain appeals which assert a violation of these rules.

PROCESS

- 5.05
- A. Throughout the appeals process, the term "days" shall mean "business days, exclusive of County-observed holidays," unless otherwise stated.
- B. No matter shall be entertained as an appeal hereunder unless it is raised as such within five (5) days after the Sheriff has issued a final decision in the internal review process.
- C. All time limits set forth in this procedure may be extended for good cause by mutual consent of the aggrieved, the Sheriff and the Commission; but if not so extended, they shall be strictly observed. If the appellant(s) fails to pursue the appeal within the time limits set forth, the appeal shall be considered resolved based upon the last answer given by supervisory representatives of the County.

SUBMISSION OF APPEALS

- 5.06
- A. Any employee in the classified service who has completed the probationary period satisfactorily and has been terminated, suspended without pay, or demoted may file a written request to the Sheriff to review the Notice of Findings and Intent to Discipline

and the employee's request for relief. The affected employee has five (5) days from the receipt of the Notice of Findings and Intent to Discipline to make the written request for review to the Sheriff. If the Sheriff does not respond in five (5) days or issues an unfavorable response, the employee has five (5) days, after receiving the Notice of Disciplinary Action, to file an appeal with the Commission (through Human Resources):

1. A copy of the written appeal and
 2. A copy of the Sheriff's response, if any.
- B. The appeal is immediately placed on the Commission agenda in the order received, provided the written appeal has been received at least **thirty (30) days** prior to the Commission's next scheduled hearing.

ADMINISTRATIVE CLOSURE

5.07

- A. An appeal may be rejected by the Civil Service Director if the director determines that no appealable issue has been presented or if the appeal was not timely filed. The Commission will receive all evidence presented by the employee, as well as a written notification of the director's determination. The Commission may overturn the decision of the director and schedule a hearing for the appellant at the next regular meeting. The appellant will receive a written notification of all action taken on his/her appeal.
- B. At least five (5) days before the hearing, the employee and the Sheriff shall submit their lists of witnesses to be called and documents to be offered to the Human Resources Department for distribution. Upon request by either party, the Commission may shorten this time. No witnesses may be heard and no documents received into evidence unless they are on the exchange list. Upon showing of good cause, the Commission has the discretion and authority to allow additional evidence.
- C. The Commission will not review any witness lists or exhibits prior to the appeal hearing. Any exhibits to be used during an appeal hearing must be formally submitted to the Commission during the appeal hearing.

PRE-HEARING CONFERENCE:

5.08

- A. Prior to the date set for the hearing, the Commission Chair may, as soon as practicable thereafter, direct the parties to appear, and the parties shall appear at the time and place specified, for discussion of the following:
- 1) Matters of jurisdiction;
 - 2) Making of stipulations;

- 3) Procedures to be followed at the full evidentiary hearing;
- 4) Identification of and limitation of the number of witnesses;
- 5) Exchange of prepared testimony and/or exhibits;
- 6) Matters to be officially noticed;
- 7) Matters of due process; and,
- 8) Any other matter which the Commission Chair believes may expedite the full evidentiary hearing.

- B. The Commission Chair shall preside at all pre-hearings and shall have full authority to rule and shall rule on all pre-hearing matters including, but not limited to, matters of jurisdiction, administrative procedure, due process and motions.

ISSUANCE OF SUBPOENAS

5.09

- A. In accordance with TEX. LOC. GOV'T CODE ANN. § 148.0355, the Commission Chair shall, upon timely request of either party to the appeal, issue *subpoenas* and *subpoenas duces tecum* for the attendance of witnesses and the production of documentary material that the requesting party considers relevant to the case. A *subpoena* or *subpoena duces tecum* request shall be considered timely if submitted to the Chairman in writing at least ten (10) days prior to the hearing. Requests for documentary material may include books, records, documents, papers or accounts. Subpoenas may be served by certified mail, return receipt requested, or by private server as authorized by the chair.
- B. A response to a *subpoena duces tecum* under this provision is considered to have been made under oath.
- C. A person who is subpoenaed commits an offense if the person fails to appear as required by the subpoena. An offense under this section is punishable by a fine of up to \$1,000, confinement in the county jail of not more than 30 days, or both the fine and confinement.

CONTINUANCE

5.10

- A. A hearing date may not be postponed or changed without the consent of the Chair. Except as hereinafter provided, either party requesting a continuance of the scheduled hearing date shall file a written Motion for Continuance no later than the close of business five (5) days preceding the hearing date. Each Motion for Continuance must

set forth the reasons the continuance is sought and must be verified. A request for continuance may be granted upon showing of good cause.

CONDUCT OF HEARING

5.11

- A. The Sheriff shall be entitled to have representation, appear personally and produce evidence. The Sheriff's matter shall be presented first.
- B. The appellant shall be entitled to obtain representation, appear personally, and present evidence. The appellant or his/her representative may request the presence of any person whom the appellant believes possesses information relevant to the issues before the Commission.
- C. Appeal hearings are not formal in nature. Therefore, technical rules of evidence shall not apply to such hearings or investigations and no informality in any of the proceedings or in the manner of taking testimony shall invalidate any order, decision, rule, or regulation made, approved, or governed by the Commission.
- D. No appellant may possess a firearm in any facility where a Civil Service hearing is conducted or where a Civil Service appeal is being heard except that a representative of any law enforcement agency, who is not the subject of the appeal, may possess a firearm.
- E. The appellant, Sheriff, or applicable representative will be allowed to present pertinent facts of evidence and call witnesses to testify on their behalf. Each side will be allowed to cross-examine all witnesses and provide rebuttal evidence to the facts presented.

FINDING AND DECISION

5.12

- A. The Commission may:
 - 1. Sustain the disciplinary action of the Sheriff;
 - 2. Reduce disciplinary action as it may deem appropriate; or
 - 3. Reinstatement the employee with or without back pay.
- B. Reinstatement with back pay means placement in the particular job assignment held by the employee at the time of the disciplinary action with no loss of benefits and with payments of all back wages, minus any amount paid at termination for compensatory time and /or vacation balances, but shall not include pay for any overtime hours not actually worked by the employee.
- C. The finding and decision of the Commission shall be final, subject to the right of appeal under Chapter 158, Subchapter B of the Local Government Code and shall be certified

and forwarded to the Sheriff and shall forthwith be enforced and followed.

- D. An employee who, on a final decision by the Commission, is demoted, suspended without pay, or terminated may appeal the decision by filing a petition in a District Court in the County within 30 days after the date of the decision. The date of decision is the day that the Commission votes and announces its decision.

RECORD FILED

- 5.13 A copy of the order in writing, a copy of the answer, together with a copy of the finding and decision of the Commission shall be filed as a public record in the office of the Commission.