

CHAPTER 10

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. 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 grievances are used by an employee who desires to complain of matters such as:

- A. Improper application of rules, regulations and procedures.
- B. Unfair treatment, including coercion, restraint or retaliation.
- C. Discrimination because of race, color, age, religion, gender, gender identification, sexual orientation, national origin, disability, or veteran status.
- D. Application of benefits or working conditions.

Any Civil Service protected employee may process a grievance. Disciplinary action grievances 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. FILING NON-DISCIPLINARY GRIEVANCES

- 10.3.01 An employee having a non-disciplinary grievance shall submit it in writing to the Sheriff and copied to the Civil Service Commission, within fourteen (14) days following actual or constructive knowledge of the alleged act, omission, occurrence or event giving rise to the grievance. The Sheriff shall file his decision with the Civil Service Commission in writing within twenty-one (21) days. If the grievance is (1) not granted in writing by the Sheriff, (2) not abandoned in writing by the grievant or (3) not resolved by mutual written agreement, the grievant has fourteen (14) days to request a hearing before the Civil Service Commission. If the Sheriff does not file a response with the Civil Service Commission, the grievance will automatically be set for a hearing before the Civil Service Commission.

SECTION 4. FILING DISCIPLINARY GRIEVANCES

- 10.4.01 A employee having a disciplinary grievance shall submit it in writing to the Civil Service Commission and copied to the Sheriff within fourteen (14) days following the receipt of the order of disciplinary action.

SECTION 5. GRIEVANCE PROCEDURES

10.5.01 The grievant and the Sheriff may agree in writing to extend the time limits set out in Section 3 and Section 4 above. However, if the employee fails to meet the filing time limits, the grievance will be considered null and void, unless good cause is shown.

10.5.02 Upon receipt of the written notice of appeal, the Commission shall hold any hearing relative to the appeal and make any decision known, in writing, to the employee subject to the following procedures:

A. The employee has a right to have a personal representative to assist with the grievance. If the employee has a representative, all communications and notices concerning the grievance between the Sheriff's Office and the employee shall be through the employee's designated representative. The employee and/or his personal representative may not use government time or resources to prepare for the grievance.

B. The grievant shall have the burden of proof by a preponderance of the evidence in non-disciplinary grievances. In disciplinary grievances, the Sheriff has the burden of proof by a preponderance of the evidence.

C. Hearings before the Commission will be set for the next available meeting date that is at least twenty-one (21) days after the grievance is filed. If more time is needed to hear the matter, the Commission may continue the hearing to another date.

D. All parties filing documents with the Commission shall serve a copy of the documents upon the opposing party at the same time. At least seven (7) days prior to the date set for the hearing, all parties shall furnish each other and the Commission with the names of the witnesses to be called, a brief description of the witness' connection to the grievance, and a copy of each document, record, or exhibit to be introduced at the hearing. Each party is responsible for notifying the witness (es) and requesting the presence of its own witness (es). A party cannot rely on the other party's witness list as a guarantee that a witness will be present. The Sheriff shall compel the attendance of any Office employee listed on the grievant's witness list. No party may require the attendance of more than three (3) character witnesses.

a. In any hearing conducted pursuant to this Chapter, the Chair of the Commission shall, on request of the affected employee, the county attorney, or a designee of the employee or county attorney administer oaths and issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of books, records, documents, papers, accounts, and other tangible things deemed relevant to the controversy by the requesting party, provided the request is filed with the Sheriff's Human Resources Department by the 10th day before the hearing is held.

b. Any subpoena issued pursuant to the provision of this section shall be delivered to the party requesting the subpoena. The party requesting service shall provide a copy of the subpoena to the other party. The subpoena shall be served by any person authorized to serve process under Texas law.

c. The requesting party shall file the return with the Civil Service Commission and provide a copy of the return to the other party. Any party or witness objecting to a subpoena may file a Motion to Quash with the Commission, and the Commission shall rule on that motion prior to commencing the evidentiary hearing.

E. When either party requests a continuance, that party shall file a written motion with the Commission, setting forth the grounds upon which such motion is made. Except for good cause shown, any such motion shall be made not less than seven (7) days prior to the scheduled date of the hearing. If both parties agree to the continuance in writing and it is the first continuance of the

hearing, the continuance shall be automatically granted and the Director of Human Resources is authorized to postpone the item until the next regularly scheduled Civil Service meeting.

F. A decision by the Commission becomes final upon the expiration of fourteen (14) days from the date the decision is announced in open session by the Commission, unless either party moves to re-open the original decision within that fourteen (14) day period. If a motion to re-open is timely filed, the Commission will have thirty (30) days to decide whether to re-open the original hearing. The Commission may re-open the original hearing upon good cause. If the Commission does not rule on the motion to re-open within thirty (30) days, the decision becomes final.

G. If the motion to re-open is denied, the decision becomes final as of the denial. If a motion to re-open is granted, the Commission shall schedule the matter for hearing for the next regularly scheduled Civil Service meeting and shall designate the issues to be considered at that hearing. Only evidence relevant and material to those issues so designated shall be admissible. The decision by the Commission following this hearing becomes final upon announcement in open session.

10.5.03 If a disciplinary grievance is sustained, an employee is entitled to reinstatement with benefits and back pay commensurate with the Commission's ruling.

SECTION 6. RETALIATION

10.6.01 Employees will not be subject to retaliation or other discriminatory actions on account of their filing a grievance or exercising any other right to which they are entitled. Previous, final disciplinary actions may be considered by the Sheriff for purposes of the application of progressive discipline or promotional considerations.