

EL PASO COUNTY SHERIFF'S OFFICE

CIVIL SERVICE COMMISSION

RULES AND REGULATIONS



ADOPTED BY

EL PASO COUNTY SHERIFF'S OFFICE

CIVIL SERVICE COMMISSION

November 5, 2024 (Revised)

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## PREAMBLE

These Civil Service Rules and Procedures are established pursuant to State law as facilitated by El Paso County Commissioners Court. The Sheriff's Office Civil Service Commission is empowered with oversight responsibilities to insure personnel actions are administered as promulgated.

Effective personnel related policies and standards are deemed to be in the best interest of El Paso County citizens; therefore, the promulgation of these rules and procedures is to promote an equitable personnel system within the Sheriff's Office.

This civil service system affords the individual a formal avenue of administrative redress.

CHAPTER 1  
ORGANIZATION

**SECTION 1. PURPOSE**

- 1.1.01 The Civil Service System is a systematic method of appointing employees to office and of promoting them for competency and performance. The following rules are designated to delineate and clarify the procedures for administering the Civil Service System on a day-to-day basis for those employees who fall under the jurisdiction of the system.
- 1.1.02 A person who is an employee covered by this Civil Service System, when adopted by the Commission, will not be required to take any competitive examination or perform another act to maintain their present position.
- 1.1.03 Hereinafter, the pronouns he, him, or his are used to signify both male and female individuals, and are used only to condense the language of this text, and are not to be construed to be discriminatory against either sex.

**SECTION 2. CIVIL SERVICE COMMISSION**

- 1.2.01 As authorized by Section 158.034 Local Government Code, the Sheriff, District Attorney and Commissioners Court are authorized to make one appointment each to the Sheriff's Office Civil Service Commission. The Commission shall make, publish, and enforce rules relating to: 1) selection, 2) competitive examinations, 3) promotions, seniority and tenure, 4) layoffs and dismissals, 5) disciplinary action, 6) grievance procedures and other procedural and substantive rights of employees, and 7) other matters having to do with selection of employees and their advancement rights, benefits and working conditions. The Sheriff appoints the Chair. All Commission appointees will serve for the duration of the appointed term unless the appointee voluntarily resigns, dies, is unable to continue to serve due to injury or illness or is removed from his position under the provisions of Chapter 87 of Texas Local Government Code.
- 1.2.02 The Civil Service Commission shall hold regular meetings on the first Monday of each calendar quarter (January, April, July and October) or if such Monday falls on a County's recognized holiday, then on the following Monday and as called by the Chairman of the Commission from time to time. The Commission shall comply with Government code (Open Meetings Act) and shall require two (2) Commission Members to be present to constitute a quorum.
- 1.2.03 The following chapters contain the rules that are presently in force for all employees under the El Paso County Sheriff's Office Civil Service System and approved by the Civil Service Commission.

**SECTION 3. HUMAN RESOURCE OFFICE**

- 1.3.01 The Sheriff's Office Civil Service Commission will utilize the personnel and equipment of the Human Resources Department.
- 1.3.02 All items to be included in the agenda for the Sheriff's Office Civil Service Commission must be received by the Human Resource Director ten (10) days prior to the next regular meeting. Commission members will receive agenda and necessary documents at least 5 days prior to the scheduled meeting.

#### **SECTION 4. CHANGE OF RULES**

- 1.4.01 These rules may be amended, repealed or supplemented by the Civil Service Commission at any time and new rules may be adopted. Notice of such action shall be issued ten (10) days, exclusive of holidays/weekends, prior to any action by the Commission to amend, repeal, or supplement any of these rules or adopt new rules. The notice shall contain the proposed changes or the proposed new rules and the date and the place at which the Commission will hold a public hearing on such proposals. Copies of the notice and of the proposed changes or new rule shall be posted on the bulletin board in the office of the Civil Service Commission, and the County Courthouse, and elsewhere as the Commission deems advisable. Copies of the notice and proposed changes or new rules shall be forwarded to the Sheriff, Division Heads, Association/Unions and made available to the public for inspection.
- 1.4.02 The Civil Service Commission, after public hearing, shall take action on the proposed changes or new rules and such changes or new rules may be adopted by a majority vote.
- 1.4.03 All rules and amendments hereto shall become effective ten (10) days, exclusive of holidays/weekends, following their approval by the Civil Service Commission. Copies of approved rules and amendments shall be distributed to the Sheriff, all employees, and made available to the public for inspection.
- 1.4.04 Any intentional disregard of a rule promulgated by the El Paso County Sheriff's Civil Service Commission may be a basis for disciplinary action.
- 1.4.05 The Civil Service Commission recognizes the Constitution and all of the laws of the United States of America and the Constitution and the laws of the State of Texas.
- 1.4.06 The Civil Service Commission recognizes and adopts the existing rules, regulations, general orders, policies and procedures of the El Paso County Sheriff's Office as set forth in the Office's Manual of Policy and Procedure insofar as those provisions do not conflict with any established rules, procedures, policies or practices of the Civil Service Commission within the powers of the Civil Service Commission embodied in Section 158.035 of the Local Government Code. Conversely, the Sheriff recognizes the authority, rules, regulations and procedures of the Civil Service Commission. Furthermore, it is required that the Sheriff submit and forward all changes and amendments to the rules, regulations, general orders, policies and procedures of the El Paso County Sheriff's Office to the Commission and all employee organizations.
- 1.4.07 "Recognize" as used throughout these rules, means to acknowledge the existence of.

#### **SECTION 5. COLLECTIVE BARGAINING**

- 1.5.01 The Commission recognizes that Chapter 174 of the Texas Local Government Code enables the County and the association as the exclusive bargaining agent representing its licensed full-time peace officers and certified full-time paid detention officers to enter into collective bargaining agreement(s). Where such an agreement "specifically provides" other than these rules, the agreement will prevail. Additionally, any such applicable collective bargaining agreement is incorporated in these rules for all purposes.
- 1.5.02 Before an employee may seek a remedy to any grievance under the rules, that employee must waive all procedures to secure such remedy under any applicable collective bargaining agreement. Such election of procedures under these rules shall result in a final order which may not be subject to any contractual grievance procedure.

**SECTION 6. EXCLUSIVITY**

- 1.6.01            This Civil Service System created under Subchapter B, Section 158.034 of the Local Government Code applies to all Sheriff's Office employees to the exclusion of the El Paso County Civil Service System created under Subchapter A of the Local Government Code and to the further exclusion of those employees as set forth in Rule 2.5.01.

## CHAPTER 2

### EMPLOYMENT

#### SECTION 1. POLICY (Revised January 25, 2017)

- 2.1.01 It shall be the policy of the Sheriff's Office and the Sheriff's Office Civil Service Commission that present employees shall have priority in the selection process. If positions are opened to both new applicants and current employees and all qualifications are equal, the preference shall be given to the current employee.
- A. A written job description for every position in the Sheriff's Office is required and must be maintained on file in the Human Resources Department.
  - B. Any change to a position description or job qualification will be presented to the Commission as a notification only.
  - C. Any requests for a waiver of a job qualification will be subject to the approval of the Commission.

#### SECTION 2. NEW HIRE PROCEDURES (Revised January 23, 2019)

- 2.2.01 Any person desiring employment with the Sheriff's Office must complete an employment application which must be electronically filed with the Human Resources Department. Applicants being considered for employment must also complete a Personal History Statement (PHS) for the background investigation. Any misrepresentation or omission of a material fact on the application or PHS is just cause for dismissal.
- 2.2.02 It is the goal of the Human Resources Department to keep a standing list of at least three (3) qualified applicants for entry level positions. Qualified applicants are those who meet the job requirements and who have successfully passed the background investigation. Qualified applicants will remain on a standing list for no more than six (6) months.
- 2.2.03 To be eligible for employment with the Sheriff's Office, all applicants must show proof of legal authority to work in the United States. Such proof must be in the form required by the Immigration Reform Act of 1986 and any future amendments to the Act. Every male seeking employment with the Sheriff's Office who is at least 18 years old but has not attained the age of 26 years must submit documentation evidencing his registration with the Federal Selective Service System. Any male within this age range who is offered employment with the Sheriff's Office may not commence his employment with the Sheriff's Office until such time as he does submit the required documentation.
- 2.2.04 All applicants must be at least eighteen (18) years of age and able to provide proof of age (i.e., driver's license, passport or birth certificate).
- 2.2.05 Applicants may be required to pass a job skills test to qualify for positions in which particular job skills are needed. The Sheriff may develop jobs skills tests for his office. All tests shall be administered by the Human Resources Department or the Sheriff's Office.



- 2.2.06 Any applicant for employment may be required to take and pass a physical examination, to include drug and alcohol screening, at the Sheriff's Office expense as a precondition to employment, if the physical examination is reasonably related to the performance of the job function in accordance with any applicable State or Federal statutes. If the applicant's job description requires direct contact with inmates or arrestees, a physical examination prior to job assignment must be administered. Employment offers are conditioned upon satisfactory results of any medical screening or physical examination.
- 2.2.07 The Sheriff's Office will conduct a background check on candidates being considered for employment. Background checks may include, but are not limited to, the following:
- (1) Driver's license verification
  - (2) Citation search
  - (3) TCIC/NCIS criminal history
  - (4) Sex offender registry
  - (5) Education verification
  - (6) Reference checks on prior employers
- 2.2.08 New hires will be processed at the Human Resources Department on Mondays, Tuesdays following a Monday holiday, or the first day of the week of a newly elected Sheriff's term. Employees must provide all requested documents as listed in the New Hire Offer in accordance with any deadlines of applicable State or Federal statutes. Mandatory orientation for new employees will be held as scheduled by the Human Resources Department.
- 2.2.09 Each employee will be classified as a Regular/Full-time employee unless otherwise specified on the Personnel Action Form (PAF) at the time of hiring.
- 2.2.10 New employees will be placed at the entry level of the grade for the position being filled.
- 2.2.11 Depending on years of experience and education which may be relevant to the position, the Sheriff may place the newly hired employee at a step higher than entry, but no higher than step 2, as cleared with the Human Resources Department. Any request for higher step placement than step 2 must be made directly to Commissioners Court.

### **SECTION 3. HIRING CRITERIA FOR DETENTION OFFICER, TRAINEE (Revised June 16, 2022)**

- 2.3.01 To qualify for a position as a Detention Officer, Trainee, applicants must meet all requirements as set forth by the Sheriff and the Texas Commission on Law Enforcement Officer Standards and Education to include but not limited to the below:
- Submit an employment application
  - Be a U.S. Citizen
  - Be at least 18 years of age
  - Have a High School Diploma or passed a general educational development (GED) test indicating high School graduation level
  - Have a minimum of 15 college credit hours from an accredited College or University, or a minimum of two (2) years of Correction or Detention Officer experience, or two (2) years of active military service, or four (4) years of reserve military service with honorable discharge
  - Successfully complete the Physical Fitness Assessment
  - Successfully complete a Preliminary Background investigation
  - Successfully complete and pass the Written Exam
  - Successfully complete the Oral Interview
  - Pass the Full-Background investigation, to include a polygraph examination
  - Be accepted pending successful completion of medical and psychological evaluations

**SECTION 4. CLASSIFIED EMPLOYEES (Revised January 20, 2021)**

2.4.01 The following are categories of employment found within the Sheriff's Office:

- A. **Regular Employee:** An individual hired by the Sheriff's Office on a continuing basis.
- B. **Temporary Employee:**
  - (1) Seasonal employees, working less than 1250 hours per year for peak periods of time (e.g. lifeguards).
  - (2) On call employees who are called in on a sporadic, unplanned basis to fill in for short term needs (e.g. visiting judges).
  - (3) An individual hired by the Sheriff's Office to perform a job for a limited period of time, not to exceed six (6) months (e.g. temporary staffing while an employee is out on FMLA or worker's compensation).
  - (4) Temporary employees are not eligible for paid leave (e.g., vacation, sick leave) insurance or retirement benefits, unless specifically approved by the El Paso County Commissioners Court on a case by case basis.
- C. **Full-Time Employee:** An employee who has a regularly assigned work schedule of thirty (30) hours per week or more.
- D. **Part-Time Employee:** An employee who has a regularly assigned work schedule of less than thirty (30) hours per week.
- E. **Exempt Employees:** Exempt employees are defined by the provisions of the Federal Fair Labor Standards Act (FLSA) and are compensated on a salary basis. Exempt employees have no legal right to receive overtime pay or compensatory time.
- F. **Non-exempt Employees:** Non-exempt employees are defined by the provisions of the FLSA and are compensated on an hourly basis. Non-exempt employees may not work in excess of 40 hours per week without compensation at time and one-half according to County overtime pay/compensatory time policies.

2.4.02 Civil Service Coverage shall be:

- A. All Regular/Full-time and Part-time employees are covered by the provisions of the Civil Service Rules and Regulations, unless otherwise excluded under Rule 2.5.01.
- B. Temporary and probationary employees are not covered by the Civil Service System.

2.4.03 The above four classifications can be combined in the following manner to classify employees:

- A. Regular, Full-Time Employee
- B. Temporary, Full-Time Employee
- C. Regular, Part-Time Employee
- D. Temporary, Part-Time Employee

2.4.04 INACTIVE EMPLOYEE:

An inactive employee is an employee who is on an approved leave of absence without pay, in excess of 31 continuous days but not to exceed 90 days, and who does not accrue length of service credit for any benefit purposes.

2.4.05 EMPLOYMENT PROBATIONARY PERIOD (Revised November 5, 2024)

- A. An employee will be considered a probationary employee for the period of time listed below in Section D following an employee's Effective Date of Employment, or successful completion of any required academy program of training, or promotion to a higher-level positions or new rank, whichever is later.
  - (1) All employees failing to successfully complete their probationary period will be terminated without right of appeal, Unless Subsection A(2), A(3), or A(4) are applicable.
  - (2) Any deputy who fails to successfully complete the probationary period following completion of the academy will be transferred back to the Detention Bureau and his/her former class and grade.
  - (3) Any probationary officer who fails to successfully complete the probationary period following promotion in rank may be returned to their former rank without right of appeal.
  - (4) Any probationary civilian employee who fails to successfully complete the probationary period following promotion to a higher-level position will be subject to the procedures outlined in Chapter 11, Section 4.
- B. A probationary employee's immediate supervisor will periodically evaluate the employee's job performance and aid and instruct the employee in any areas requiring improvement.
- C. The Sheriff may extend an employee's probationary period, prior to its expiration, in the event the employee's service to the Office is interrupted during the initial probationary period due to accident, illness, or any other reason or if there are deficiencies in the employee's performance which could, in the opinion of the Sheriff, be cured with further training or additional time. In no event may the probationary period be extended for any period greater than six (6) additional months.
- D. Probationary Periods:
  - (1) Civilian Employees (Except for Communications) - Six Months
  - (2) Civilian Employees (Promoted to Higher Level Position) - Six Months
  - (3) Communications Employees - One Year
  - (4) Collective Bargaining Employees (New Hire or Rehire Detention Officer) - One Year

- (5) Collective Bargaining Employees (Deputy Sheriff) – One Year
- (6) Collective Bargaining Employees (Officers Promoted to a New Rank) – 180 days

2.4.06 SEPARATION OF EMPLOYMENT:

Separation of employment is the discontinuance of an employee's service with the Office as a result of resignation, dismissal, reduction-in-force, retirement or death.

2.4.07 JOB CLASSIFICATION

A hierarchical structure of jobs, usually arranged into classes or pay grades according to a job evaluation.

2.4.08 CLASS

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

**SECTION 5. EXEMPT EMPLOYEES (Revised January 21, 2020)**

2.5.01 The following positions are exempt from the provisions of the El Paso County Sheriff's Office Civil Service system as authorized by Section 158.038, Local Government Code:

- (1) Executive Chief Deputy – Law Enforcement Bureau
- (2) Chief Deputy – Detention Services Bureau
- (3) Executive Administrative Officer – Administration Services Bureau
- (4) Assistant Chief – Detention Facility Division
- (5) Assistant Chief – Jail Annex Division
- (6) Commander – Patrol Division
- (7) Commander – Criminal Investigations Division
- (8) Commander – Planning Accreditation and Inspection Division
- (9) Public Affairs Director
- (10) Executive Assistant to the Sheriff

**SECTION 6. FITNESS-FOR DUTY (Revised November 5, 2024)**

2.6.01 Detention Officers & Telecommunicators

- A. The Sheriff, in cooperation with Human Resources, may order any Detention Officer or Telecommunicator to undergo a fitness for duty examination whenever a question arises as to whether the employee is medically or psychologically fit to continue his/her duties. The examination shall be conducted by the employee's personal physician, psychiatrist, or psychologist, as appropriate and in accordance with office policy. The employee may choose to have the examination conducted by a County-contracted provider. If a County-contracted provider is used to conduct the examination, the examination will be at County's expense.
- B. To facilitate the employee's examination, Human Resources will provide all necessary documentation and available information to the entity responsible for conducting the examination.

- C. Human Resources will receive, from the examiner, a report indicating whether the employee is fit for duty. If the employee is unfit for duty, the existing restrictions or conditions must be indicated by the examiner, in the report.
- D. The Sheriff may order a second examination if the employee, the El Paso County Sheriff's Office Civil Service Commission, or the Sheriff question the examiner's report, unless the initial examination was conducted by a County-contracted provider, The second examination will be conducted by a County-contracted physician, psychiatrist, or psychologist and will be at County's expense. A copy of the full examination conducted by the initial practitioner shall be made available to the assigned practitioner. If the report of the assigned County-contracted practitioner disagrees with the report of the initial practitioner, the determination of the assigned County-contracted practitioner as to the employee's fitness will be followed.
- E. All reports and examinations submitted by the examining practitioner will be part of the employee's confidential medical file.
- F. The Sheriff, in cooperation with Human Resources, will determine the duty status of employees who are found to be unfit for duty or fit for duty with limitations.
- G. Any employee ordered to undergo a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining practitioner. Any failure to comply with such order and any failure to cooperate with the examining practitioner may be deemed insubordination and will subject to employee to discipline, up to and including termination.

#### 2.6.02

##### Peace Officers

- A. The Sheriff, in cooperation with Human Resources, may order any Deputy to undergo a fitness for duty examination whenever a question arises as to whether the employee is medically or psychologically fit to continue his/her duties. The examination shall be conducted by the **employee's** chosen physician, psychiatrist, or psychologist, as appropriate and in accordance with applicable laws, office policy, provisions of the Commission Rules and Regulations, or other agreements. The employee may choose to have the examination conducted by a county-contracted provider. If a County-contracted provider is used to conduct the examination, the examination will be at County's expense.
- B. To facilitate the employee's examination, Human Resources will provide all necessary documentation and available information to the entity responsible for conducting the examination.
- C. Human Resources will receive, from the examiner, a report indicating whether the employee is fit for duty. If the employee is unfit for duty, the existing restrictions or conditions must be indicated by the examiner, in the report.
- D. The Sheriff may order a second examination if the employee, the El Paso County Sheriff's Office Civil Service Commission, or the Sheriff question the examiner's report, unless the initial examination was conducted by a County-contracted provider, The second examination will be conducted by a County-contracted physician, psychiatrist, or psychologist and will be at County's expense. A copy of the full examination conducted by the initial practitioner shall be made available to the assigned practitioner. If the report of the assigned County-contracted practitioner disagrees with the report of the initial practitioner, the determination of the assigned County-contracted practitioner as to the employee's fitness will be followed.

- E. All reports and examinations submitted by the examining practitioner will be part of the employee's confidential medical file.
- F. The Sheriff, in cooperation with Human Resources, will determine the duty status of employees who are found to be unfit for duty or fit for duty with limitations.
- G. Any employee ordered to undergo a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining practitioner. Any failure to comply with such order and any failure to cooperate with the examining practitioner may be deemed insubordination and will subject to employe to discipline, up to and including termination.

2.6.03

Civilian Employees

- A. The Sheriff, in cooperation with Human Resources, may order any civilian employee to undergo a fitness for duty examination whenever a question arises as to whether the employee is medically or psychologically fit to continue his/her dues. The examination shall be conducted by a County-contracted provider.
- B. To facilitate the employee's examination, Human Resources will provide all necessary documentation and available information to the entity responsible for conducting the examination.
- C. Human Resources will receive, from the examiner, a report indicating whether the employee is fit for duty. If the employee is unfit for duty, the existing restrictions or conditions must be indicated by the examiner, in the report.
- D. The Sheriff, in cooperation with Human Resources, will determine the duty status of employees who are found to be unfit for duty or fit for duty with limitations.
- E. Any employee ordered to undergo a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining practitioner. Any failure to comply with such order and any failure to cooperate with the examining practitioner may be deemed insubordination and will subject to employe to discipline, up to and including termination.

**SECTION 7. EQUAL EMPLOYMENT OPPORTUNITY (Revised October 2, 2018)**

2.7.01 It is the Office's Policy to provide equal employment to all applicants. As a result, the County will recruit, hire, and promote in all job classifications without regard to race, color, sex, religion, gender, sexual orientation and gender identity/expression, age, national origin, disability, ancestry, marital status, pregnancy, veteran status, genetic information, or any other legally protected characteristic, to ensure compliance with El Paso County Affirmative Action Plan and any applicable Federal and/or State statutes.

2.7.02 The preceding policy, however, is not to be construed to prohibit the Office from establishing "bona fide occupational qualifications" that are required to perform a job, in compliance with the El Paso County Affirmative Action Plan and any applicable Federal and/or State statutes.

## SECTION 8. INTRA-DEPARTMENTAL LATERAL TRANSFERS

- 2.8.01 A lateral transfer is the change of job assignment of an employee that does not affect the person's pay grade or salary. The determining factor in distinguishing between a demotion and a transfer is whether there is any reduction of salary or pay grade.
- 2.8.02 Any employee requesting a lateral transfer between divisions within the Sheriff's Office must notify his immediate supervisor and the Human Resources Department in writing in order to be considered for a transfer.
- 2.8.03 Lateral transfers are subject to the approval of the Sheriff. The commission recognizes the Sheriff's management right to make lateral transfers. Lateral transfers are not subject to review by the Commission.

## SECTION 9. PAY UPON DEMOTION (Revised April 20, 2022)

- 2.9.01 Disciplinary Demotions
- A. When an employee is demoted to a lower graded position as a result of discipline, the employee shall be placed into the grade at the step no higher than the equivalent step the employee is currently in.
  - B. An employee may be placed at a different step within the new pay grade, either up or down, at the discretion of the Sheriff and as verified with the Human Resources Department.  
Under no circumstances, however, will an employee subject to a disciplinary demotion be placed in a pay grade or step that results in either: 1) a higher salary for the employee; or 2) a higher step than authorized based on the employee's total years of service with the County in the reduced pay grade and the higher pay grade combined.
  - C. The HR Department shall notify the El Paso Sheriff's Civil Service Commission, in writing, of all demotions pertaining to civil service covered positions at their next regularly scheduled meeting. The seniority date will not change to reflect the demotion date.
- 2.9.02 Voluntary Demotions
- A. When an employee voluntarily applies for, and is selected for, a lower graded position, the employee shall be placed into the new, lower grade at the step equivalent to the step the employee is currently in, and the employee's pay will be lowered to this step.
  - B. An employee demoted for a voluntary reason may be placed a different step within the new pay grade, either up or down, at the discretion of the Sheriff and as verified with the Human Resources Department.
  - C. Should an employee, who was demoted for voluntary reasons be selected for a higher position in the future, nothing shall prevent the employee from being placed at a higher step within the new position, based on prior education and experience as it related to the position, at the discretion of the Sheriff and subject to verification of qualifications by the Human Resources Department

## SECTION 10. REDUCTION-IN-FORCE (Revised January 20, 2021)

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

- 2.10.02 Changes in position authorization required in a reduction-in-force will be determined by El Paso Commissioners Court and will be initiated by the ordered reduction of budgeted funds, or the reduction of authorized position numbers in a specific department/section.
- 2.10.03 Once the number of positions to be reduced in a job classification is determined in each department/section, the Sheriff will review the existing job performance records on the employees currently occupying the job classification in the department/section to determine which employees will be retained in the remaining positions in that job classification. Employees who will not be retained in the remaining positions in the job classification will be referred for reassignment to other available position openings for which they are qualified in the same or other sections/departments by coordinating this action with the Human Resource Department and the County Sheriff's Office. The employee will have an option of demotion, provided that the demotion will not require reassignment of any other employee.
- 2.10.04 Length of service is defined as the number of calendar months of continuous County service in the affected employees' current classification, unless otherwise dictated by law. Periods of unapproved absence or leave without pay will not be credited as County service. Length of service in the class for which reassignment to another available position is computed will include service in any other class as determined by the appointing authority, subject to the approval of the Civil Service Commission and/or El Paso County Commissioners Court, to be equal to, or greater than the employee's current classification.
- 2.10.05 Retention of employees in the remaining positions in the job classification will be based on the job performance and length of service. Those employees who have demonstrated continued, documented excellence in job performance will be given preference in the retention decision. Reassignment of employees who are not retained to other available position openings will be based on the job performance and length of service. Those employees who have demonstrated continued, documented excellence in job performance will be given preference in the reassignment decision.
- 2.10.06 Non-probationary employees may appeal any retention or reassignment decision to the El Paso County Sheriff's Office Civil Service Commission through the Grievance Procedures.
- 2.10.07 When efficiency and job performance are documented and equal, length of service will be the determining factor in the retention or reassignment rankings. In the event that no job performance records exist, length of service will be the determining factor in the retention or reassignment rankings.
- 2.10.08 Any employee separated as a result of a reduction in force will regain the seniority credit he/she possessed at the time of the reduction in force if he is reemployed by the Sheriff. If not more than six (6) months break in service has occurred, all employees reemployed after a reduction-in-force will be entitled to restoration of benefits and their salary level at time of separation.

#### **SECTION 11: RE-EMPLOYMENT (Revised July 19, 2023)**

- 2.11.01 Former employees who separated from service in good standing shall be eligible for re-employment within the County.
- A. Candidates for re-employment are subject to the same employment procedures as any other applicants pursuing employment with the County and shall refer to alternate County policies regarding employment.
- (1) Employees who are re-employed within 6 months will be re-instated to the same accrual rate for vacation leave as if no separation had occurred.



- B. If not more than six (6) months break in service has occurred, and the position the employee last vacated is vacant, an employee may be re-employed to the grade and step upon which they previously separated, if a vacancy is available, upon recommendation of the Sheriff.
- C. Employees who are re-employed within 30 days will be re-instated to the same sick leave balance and health and dental insurance coverage as if no separation had occurred.
- D. Employees who are terminated from their position for disciplinary reasons, resign or retire in lieu of termination or other administrative action, resign or retire during the pendency of an internal investigation of a serious nature, resign without complying with Section 2.12.01 of these Rules, or are considered to have resigned pursuant to Section 2.12.02 of these Rules are not eligible for re-employment.

2.11.02 Reinstatement

- A. If an employee should be dismissed or demoted as the result of a reduction in force, and if within a period of (6) six months thereafter, a vacancy should occur in the Sheriff's Office and in the same or in a lower class, the said employee shall be reinstated in the vacant position, provided that such employee is willing to accept the offered employment, and that such employee meets all qualifications for said position.
- B. When more than one dismissed or demoted person qualifies for reinstatement under these rules, the preference shall be given to the person laid off last.

**SECTION 12: RESIGNATION** (Revised March 1, 2017)

- 2.12.01 An employee who desires to resign in good standing with the County shall submit his written resignation thru the chain of command to the Sheriff who shall forward to Human Resources. Except for good cause, the employee shall give at least two (2) weeks notice of his intention to resign.
- 2.12.02 An employee who has not been authorized to take leave and fails to report to work for three (3) consecutive work days will be deemed to have resigned and will be removed from the payroll. Records will coded "Resigned-No-Notice Given".

**SECTION 13. EFFECTIVE DATE OF SEPARATION** (Revised March 1, 2017)

- 2.13.01 Effective date of an employee's separation will be the last actual day the employee worked for the Sheriff's Office. Upon separation, an employee shall be compensated for hours worked and qualifying accrued leave benefits on the date of the employee's separation. Qualifying accrued leave includes vacation time and compensatory time, but does not include sick leave or military leave. An employee who has separated from employment for any reason (voluntarily or involuntarily) and who has cleared with the county HR department's exit checklist, shall be paid in full no later than the next full regularly scheduled pay day occurring after the date of separation.

## SECTION 14. WORK HOURS SCHEDULING (Revised November 5, 2024)

### Work Periods

- 2.14.01 The Sheriff shall assign the work period for Sheriff's Office employees. The work period for all Sheriff's Office employees<sup>1</sup> shall be a seven (7) day period beginning at 12:00 a.m. on Sunday and ending at 11:59 pm on Saturday. This regulation does not apply to employees who are FLSA "exempt."
- 2.14.02 The Sheriff may establish an alternate work period in writing with the review and approval of Human Resources and County Attorney's Office. Alternate work period will be kept on record with Human Resources.

### Work Schedules

- 2.14.03 The Articles of Agreement between the County of El Paso, Texas and El Paso County Sheriff's Officers' Association govern the establishment, scheduling of work hours, overtime, and related working conditions for uniformed employees covered by that Agreement.
- 2.14.04 For all other employees, the establishment, scheduling of work hours, overtime and related working conditions shall be determined by the Sheriff.
- 2.14.05 Office hours for the Sheriff's Office are generally based on an eight hour work day, Monday through Friday, determined by the Sheriff. The Sheriff, however, may establish flexible work schedules.
- 2.14.06 The Sheriff's Office must be sufficiently staffed at all times during regular office hours.
- 2.14.07 Flexible schedules must comply with public sector accountability rules requiring employees be paid only for time worked or accrued leave taken.
- 2.14.08 Any use of a flexible schedule and/or flexing working hours must be approved in advance by the Sheriff.
- 2.14.09 As with the normal work schedule, all work performed before or after regular office hours must be productive and beneficial to the mission of the Office, and have prior supervisory approval.
- 2.14.10 Flexible, compressed, or modified work schedules will only be approved by the Sheriff, if:
- (1) The work schedule is established in writing; and
  - (2) The work schedule does not result in the accrual of compensatory time or overtime.
- 2.14.11 A compressed workweek is a full-time weekly work schedule completed in less than five (5) days. An example is working four (4) ten (10) hour days.
- 2.14.12 A modified work schedule shifts daily work hours from the traditional 8:00 a.m. to 5:00 p.m. day. Examples include working 7:00 a.m. to 4:00 p.m., 7:30 a.m. to 4:30 p.m. or 9:00 a.m. to 6:00 p.m.
- 2.14.13 An employee will not be permitted to work a compressed workweek during any week that contains a County observed holiday.

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<sup>1</sup> The work period for employees covered by collective bargaining is established in the agreement with those employees.

- 2.14.14 Scheduling of work is a management right. Flexible schedules are subject at all times to revocation or alteration by the Sheriff to meet staffing needs or to achieve performance initiatives. In addition, failure to work the necessary hours for flexing may result in revocation of the flexible schedule.
- 2.14.15 Any leave time taken will be based on the hours the employee was scheduled to work (e.g., one day off on a four (4) ten (10) schedule would be ten (10) hours of vacation time).
- 2.14.16 The work day will generally include two (2) breaks not to exceed fifteen (15) minutes each; one during the first half of the work day, the other during the second half of the work day. Break periods are not mandatory and may not be accrued. The lunch period is uncompensated.

#### **SECTION 15. OVERTIME GENERAL (Revised October 2, 2018)**

- 2.15.01 Overtime work, overtime pay, and compensatory time shall be based on policy established by the Sheriff's Civil Service Commission and the El Paso County Commissioners Court in accordance with provisions of FLSA.
- 2.15.02 Based on available budgeted funds allocated to a line item for overtime, specifying tasks to be accomplished, and with prior certification by the County Auditor that funds are available for tasks to be performed, and where compensatory time off is impractical or not authorized under FLSA, overtime pay is authorized for eligible County employees who are required to work in excess of a forty (40) hour week. Except for bargaining unit employees, compensatory time may be substituted for overtime pay.
- 2.15.03 Overtime must be for work ordered or approved in advance by the Sheriff, or his designee. Overtime pay is allowed only when funds are appropriated by El Paso County Commissioners Court.
- 2.15.04 Employees eligible to receive overtime pay are employees classified as non-exempt as defined by the provisions of the FLSA.
- 2.15.05 Employees generally ineligible to receive overtime pay are those defined by job functions as exempt as defined by the provisions of the FLSA unless overtime pay is expressly approved by El Paso County Commissioners Court.
- 2.15.06 The appropriate supervisor shall keep all necessary records relating to overtime, such as each instance of overtime worked, the reason therefore, and will supply the Auditor's Office such information each pay period.
- 2.15.07 Overtime provided pursuant to a Collective Bargaining Agreement exclusively governs the compensation provided to employees covered by that Agreement.

#### **SECTION 16. ELIGIBILITY FOR OVERTIME**

- 2.16.01 Employees eligible to receive overtime pay are employees classified as FLSA Non-exempt.
- 2.16.02 Employees generally ineligible to receive overtime pay are those defined by job function as FLSA Exempt unless expressly approved by Commissioners Court.

**SECTION 17. CLASSIFICATION PROCEDURE (Revised January 20, 2021)**

2.17.01 Revision of position descriptions and re-allocations with the classification plan will be made as often as necessary to provide current information on positions and classes and when funding exists to make any required changes.

- A. It is the duty of the Sheriff to notify the Human Resources Department when existing positions substantially change (15% or more) in duties and responsibilities. This is done by submitting a Staffing Adjustment Request (SAR) form to the Human Resources Department which includes reasons for the changes (i.e., experience, education, certifications, etc.)
- B. It is the duty of the Human Resources Department to examine and analyze position changes, modify and update position descriptions, and rate positions using a standardized method. This method will include valuing the position's responsibilities, requirements, and qualifications to accurately classify or reclassify the position, as well as other factors affecting classification.
- C. After review by the Human Resources Department, if the request is justified, the budget impact will be determined, and a recommendation will be made to the County Administrator for approval. If approved, the Human Resources Department will work with the Sheriff's Office to take necessary steps to implement the reclassification.

2.17.02 IMPACT OF RECLASSIFICATION ON EMPLOYEES

- A. An employee whose position is reclassified to a classification having increased responsibilities or complexity of duties is eligible to remain in the position provided he/she meets the minimum qualifications for the new classification. The employee who does not qualify for the new classification may be removed from the position and may be eligible for re-employment elsewhere, if a vacant position is available with the employee's job skills.
- B. An employee whose position is reclassified to a job not having increase responsibilities or complexity of duties, but results in increased pay based on the job rating and market analysis, is considered a reclassification of the position alone.
- C. An employee whose position is reclassified to a job having increased responsibilities or complexity of duties and in a higher pay grade, and who is eligible to remain in the position, is considered to have been promoted as a result of the reclassification. County promotion policies apply in this case.
- D. An employee whose position is reclassified to a classification having decreased responsibilities or complexity of duties is eligible to remain in the position provided he/she meets the minimum qualifications for the new classification. The employee who does not qualify for the new classification may be removed from the position and may be eligible for re-employment elsewhere, if a vacant position is available within the employee's job skills.
- E. An employee whose position is reclassified to a job having decreased responsibilities or complexity of duties and in a pay grade with a decreased entry level rate, and who is eligible to remain in the position, is considered to have been downgraded as a result of the reclassification.
- F. Reclassification of positions that are initiated by the County do not impact the probationary period or the seniority date of incumbents.

2.17.03

PAY UPON UPGRADE OR DOWNGRADE

This section applies to County initiated position reclassifications resulting in an upgrade or downgrade, that are not based on employee performance and are not disciplinary in nature.

- A. When an employee is **upgraded** as a result of the position reclassification, the employee will be placed into the new grade at the minimum step that will provide at least a 1.28% increase.
- B. When an employee is **downgraded** as a result of the position reclassification, the employee will be placed into a new grade at the step equal to the step they were in at the time of the reclassification. Additionally, their pay will be frozen (redlined) at their current rate of pay until the base rate of pay for the step the employee has achieved is greater than the current base rate of pay. The employee would not be eligible for step increases, but would receive any cost of living adjustments, or any other types of wage adjustments, if given to employees in the same classification scale.
  - (1) For example, a G20 Step 4, (38,625.15) employee’s position is reclassified to a G14. The employee may be moved to Grade G14, Step 4, but would continue to receive \$38,625.15 in pay.
  - (2) Each year the County gives step/merit increases, the employee would receive a step up in the grade if their performance is warranted, but would not see a change in pay until the pay rate for the step the employee is placed is higher than the employee’s current pay rate. In this scenario, the employee would not receive an increase until he or she reached Step 14 of Grade G14.

Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13	Step 14
30914.12	31686.97	32479.14	33291.12	34123.40	34976.49	35850.90	36747.17	37665.85	38607.50	39572.68

- C. In the case of any downgrade of a position, an employee will not be placed lower than the level to which the employee would have progressed if the employee had previously been in the lower grade and had not been promoted to a higher grade(s) previously.
  - (1) For example, an employee was hired as an Administrative Specialist, Intermediate and was in this position for 3 years and was at Step 2. The employee was promoted to Administrative Specialist, Senior and was in this position for 4 years and received step increases each year. If this Administrative Specialist, Senior position is downgraded, the employee would be placed at the Administrative Specialist, Intermediate step he would have achieved had he never been promoted to Administrative Specialist, Senior. In this example, the employee may be placed at Step 6.

2.17.02.1

EFFECTIVE DATE OF CHANGES

The effective date of all reclassification of incumbents coincides with the first day of the pay period coinciding with or following approval of the action if the effective date is not established during the approval process.

## CHAPTER 3

### COMPENSATION

#### SECTION 1. GENERAL PROVISIONS

- 3.1.01 The current Wage and Salary Schedules were established to provide a mechanism whereby eligible El Paso County employees may be equitably compensated for the employee's increased value to the County through length of service.
- 3.1.02 Notwithstanding the provisions of 2.4.09, the Sheriff may, with the consent of Commissioners Court, hire not more than two employees at a rate greater than the rate of the grade to which the person is hired, provided further that at no time may more than two individuals so hired be in the employ of the Office.
- 3.1.03 Further increases may be authorized annually as approved by Commissioners Court for the fiscal year.
- 3.1.04 All employees are paid biweekly, every other Friday. Employees are not permitted to borrow on their earnings and checks will not be issued before the due date.
- 3.1.05 Compensation provided pursuant to a Collective Bargaining Agreement exclusively governs the compensation provided thereby to affected employees.

#### SECTION 2. SHIFT DIFFERENTIAL PAY (Revised October 20, 2021)

- 3.2.01 This policy serves as the shift differential policy for Sheriff's Office employees in which FLSA non-exempt employees are scheduled on a regular, rotating or sporadic basis to work during the evening or graveyard shifts.
- 3.2.02 Policy
- Employees who are assigned, ordered, or volunteer to work a shift for at least four (4) consecutive hours that begins on or after 4:00 p.m. shall work the "evening" shift. Employees who are assigned, ordered, or volunteer to work a shift for at least four (4) consecutive hours that begins on or after 12:00 a.m. (midnight) shall work the "graveyard" shift. Non-exempt employees working either of these two shifts are entitled to shift differential pay.
- 3.2.03 Eligibility
- Positions must be temporary or regular full-time or part-time non-exempt employees who are not covered by the collective bargaining agreement.
- 3.2.04 Procedure
- A. The evening shift differential applies to hours consecutively worked between 4:00 p.m. and 12:00 a.m. midnight. (Minimum of 4 hours must be consecutively worked during this time frame.) Employees will be paid an evening shift differential of \$0.35 for each hour worked during this time. Hours worked within this timeframe shall be coded Hours Worked and to SDA, and shall be verified and approved by the immediate supervisor. See example below:

Week starting: Sun 3/05

	Pay Code	Transfer	Sun 3/05	Mon 3/06	Tue 3/07	Wed 3/08	Thu 3/09	Fri 3/10
X	Hours Worked			8.00	8.00			
X	Hours Worked					8.00	8.00	8.00
X	SDA			8.00	8.00			
				16.00	16.00	8.00	8.00	8.00

- B. The graveyard shift differential applies to hours consecutively worked between 12:00 a.m. midnight and 8:00 a.m. (Minimum of 4 hours must be consecutively worked during this timeframe.) Employees will be paid a graveyard shift differential of \$0.70 for each hour worked during this time. Hours worked within this timeframe shall be coded to Hours Worked **and** SDB, and shall be verified and approved by the immediate supervisor. See example below:

Week starting: Sun 2/26

	Pay Code	Transfer	Sun 2/26	Mon 2/27	Tue 2/28	Wed 3/01	Thu 3/02	Fri 3/03
X	Hours Worked				8.00	8.00		
X	Hours Worked			8.00			8.00	8.00
X	SDB				8.00	8.00		
				8.00	16.00	16.00	8.00	8.00

- C. Employees shall not be eligible to receive both the “evening” shift differential pay and the “graveyard” shift differential pay for the **same** hours of work. However, if an employee works through parts of both shifts, the employee shall code their time properly to reflect the hours worked in **each** shift. **Example:** If an employee is scheduled from 7:00 p.m. to 12:00 a.m. (5 hours) to SDA. The employee would then code their time from 12:00 a.m. to 7:00 a.m. (7 hours) to SDB.
- D. All differentials paid to employees will be included in the employee’s regular rate for purposes of overtime accrual calculation where applicable.
- E. Compensatory (comp) time will apply in accordance with the County’s Compensatory Time policy.

### 3.2.05

#### Exclusions

- A. Exempt employees are not eligible for shift differential pay.
- B. Shift differential pay will not be paid for hours not worked.
- C. Funding has been set aside for the Shift Differential Program; however, Commissioners Court has final approval of shift differentials and may rescind when conditions warranting the pay premium are no longer applicable or funds are no longer available.
- D. Employees with questions regarding shift differential pay should contact the immediate supervisors, or the Human Resources Office.

**SECTION 3: OVERPAYMENTS, UNDERPAYMENTS AND REPAYMENT (Revised August 13, 2019)**

3.3.01 The El Paso County Human Resources Department (HR) and County Auditor Payroll and Benefits Reporting/Audit division (Payroll) strive to pay employees correctly and promptly in accordance with approved assignments, Commissioners Court approved compensation policies and pay scales, and all pay requests processed by the Sheriff's Office payroll section each pay cycle. On occasion, due to errors in reporting, processing, and approvals, employees may be underpaid, or paid more than is owed to them.

**Should an employee be underpaid for any reason, HR and Payroll will work to investigate the matter promptly and correct the underpayment within the pay period following the date the underpayment is confirmed. The same notification procedures below will be used to address underpayments.**

3.3.02 This policy establishes the process for identifying, remedying, and recouping salary overpayments to El Paso County Sheriff's employees. This policy applies to all employees.

3.3.03 Definition

Overpayment is defined as compensation paid to an employee in excess of the amount owed for a given pay period. Overpayments are payments made without authorization and must be repaid regardless of the origin, error or amount.

3.3.04 Responsibilities and Authority

- A. HR and Payroll are collectively responsible for making timely and accurate salary payments to employees, reviewing payroll for accuracy, notifying employees and the Sheriff when an error is discovered and executing *Overpayment and Repayment Plan Agreements*.
- B. The Sheriff's Office payroll section is responsible for reviewing employees' payroll periodically, but especially when there is a change in salary. In the event an error is identified, the Sheriff's Office payroll section shall report all overpayments/underpayments to HR as soon as possible, but no later than 5 days after the error is discovered. The Sheriff's Office payroll section is also responsible for maintaining communication with the employee throughout the repayment process.
- C. Additionally, employees are responsible for reviewing their payroll statements for accuracy, promptly reporting any discrepancies to the Sheriff's Office payroll section and repaying amounts overpaid to them in accordance with this policy.

3.3.05 Overpayment Procedure

- A. When an overpayment is discovered, HR must report the overpayment to Payroll and include all relevant information.
- B. Payroll will initiate administrative procedures to calculate the overpayment. Once the overpayment is verified, Payroll will notify HR. HR will correct the affected employee's pay by the next pay period to ensure the overpayment does not continue.
- C. The Sheriff and employee will be notified by HR in writing via a *Notice of Overpayment* that includes an explanation of the overpayment. Copies of the notification will be sent by email to Payroll.



- D. The employee will be provided with an *Overpayment and Repayment Plan Agreement* which allows the employee to select their repayment preference. This agreement must be completed and signed by the employee and returned to HR within 10 business days from the date of *Notice of Overpayment*, unless the employee chooses to dispute the matter. (See Section 3.3.06 A of this policy.) Signed agreements will then be referred to Payroll for processing.
- E. Repayment options include the following:
- (1) One-time deduction from a subsequent paycheck;
  - (2) Personal payment from the employee in the form of cash, personal check, money order or credit card;
  - (3) Use of accrued compensatory time and/or vacation hours<sup>1</sup>; and
  - (4) Payment Plan or recurring deductions established for a period not to exceed the total time period over which the overpayment was made.
- F. Repayments made in accordance with a payment plan or recurring deductions will commence at the start of the first pay period after the signed forms are received by Payroll.
- G. All backup documentation shall be preserved in the employee's personnel file for audit purposes.
- H. When an overpayment is paid back in the same year, the employee's repayment will be reflected in his or her IRS form W-2 Wage and Tax Statement.
- I. Repayments Crossing Tax Years:<sup>2</sup>
- (1) In accordance with IRS requirements, Payroll may adjust taxable income and income tax withholding balances only for the amount of repayment received in the same tax year in which the overpayment occurred. If an overpayment, or portion of an overpayment, is paid back in a subsequent year, the employee is responsible for income taxes for such amounts in the year of overpayment. The employee may be entitled to a deduction (or credit in some cases) for repaid wages on his or her income tax return for the year of repayment. To determine how to account for these repayments when filing their taxes, employees may review IRS Publication 525 – Repayments Sections, Form 1040 and Schedule A Instructions, or contact their personal tax advisor or the IRS for further assistance.
  - (2) The Social Security Administration allows correction and recovery of Social Security and Medicare tax balances for the current year and the three previous tax years with forms documenting employee authorizations. Payroll will file these corrections by generating and filing appropriate tax forms, including a W-2C after receiving the employee's consent.
  - (3) Because of the strict IRS rules regarding how to handle the repayment of wages (IRS Publication 15, Circular E, Employer's Tax Guide), individuals may not necessarily recover the additional tax liability from the previous year related to the overpayment.
  - (4) It is imperative an employee ensure the payments they are receiving are correct, and any overpayment are paid back in the same year when possible.

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1 May be subject to higher tax rate in accordance with IRS guidelines.

2 This information is not tax advice. Employees should consult a personal tax advisor to assure that they are fully informed of all tax ramifications related to their personal overpayment situation.

3.3.06

Disputes

- A. If the employee is in disagreement with the overpayment claim, he or she must indicate disagreement on the ***Notice of Overpayment***. The employee must provide all supporting documentation to HR no later than 10 business days from the date the ***Notice of Overpayment*** is signed. The employee will be notified with a date on which the dispute will be reviewed by Commissioners Court.
  
- B. The HR department will notify the employee within 72 hours of the Court's decision.
  - (1) If the Court determines the overpayment constitutes a debt owed to the County, the County Auditor will also be notified within the 72 hour period.
  - (2) If a debt is owed, the County Auditor will proceed with the collection procedures to collect the debt, and will consult with the County Attorney's Office as deemed necessary.
  
- C. If no debt is found, all recoupment efforts will be discontinued.

3.3.07

Separating Employees

If an employee who has been overpaid is separating from the County of El Paso, the repayment shall be in accordance with section 3.3.05 E of this policy.

3.3.08

Annual Authorization

Each year, the HR Department shall request authorization by Commissioners Court to allow for repayments to be made via payroll deduction.<sup>1</sup>

**SECTION 4: SAFE HARBOR PROVISIONS FOR THE FLSA (Revised January 20, 2021)**

3.4.01

It is the policy of the County to fully comply with the Fair Labor Standards Act. In keeping with this commitment, the County will make a good faith effort to properly classify employees and pay exempt employees their full salary for any workweek in which they perform work, regardless of the number of days or hours worked, subject only to deductions that are permitted by law. Deductions from pay permitted by law include, for example: vacation; personal time off; sick days before or after eligibility for paid sick leave; infractions of written workplace conduct rules; infractions of safety rules of major significance; or for use of intermittent leave under the Family and Medical Leave Act.

3.4.02

It is further the policy of the County to promptly investigate and correct any improper classifications, payroll deductions, or other payroll practices that do not comply with the Act. If an employee believes an improper payroll practice – such as an improper classification or improper deduction from an exempt salary – has occurred, he or she may make a complaint to the Human Resources Department. Human Resources will see that the matter is appropriately reviewed; and the employee will be reimbursed for the amount of any inappropriate deduction found to be taken.

**SECTION 5. COMPENSATORY TIME (Revised November 5, 2024)**

3.5.01

Compensatory Time

- A. The County will allocate and schedule work appropriately so that FLSA “non-exempt” employees are not required to work over forty (40) hours in a workweek except when mandated by operating necessities. The Sheriff or his designee is responsible for establishing

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<sup>1</sup> In accordance with the Local Government Code

work schedules and for ensuring adherence to federal and state law and County policy. This policy applies to any and all hours where a non-exempt employee is required or is permitted to work in excess of forty (40) hours in the standard workweek.

- B. Compensatory time off (comp time) is paid time off that is earned and accrued by an employee in lieu of overtime pay for authorized overtime. Unless overtime pay is specifically authorized through Commissioners Court, County employees who physically work over forty (40) hours in a workweek are compensated with compensatory time in lieu of overtime pay. By working the additional time, employees are agreeing to this method of compensation.

#### 3.5.02 Authorization for Compensatory Time for Non-exempt Employees

- A. Authorization to work in excess of the standard forty (40) hour workweek must be obtained in advance from the Sheriff or designee and should be documented. Employees who work in excess of forty (40) hours in a standard workweek without prior Sheriff's authorization are subject to corrective or disciplinary action.
- B. Actual compensatory time earned shall be reported on the employee's bi-weekly electronic time card as prescribed by the County Auditor and must be approved by both the employee and the Sheriff or designee.

#### 3.5.03 Earning Compensatory Time

Non-exempt employees who are authorized or permitted to work in excess of forty (40) hours in a workweek are entitled to compensatory time off at a rate of one and one-half times for all time actually worked over forty (40) hours in a workweek. Paid or unpaid leave of any type taken during a workweek does not count as hours worked in computing overtime.

#### 3.5.04 Limitations

Non-exempt employees may not have a balance of more than eighty (80) hours of compensatory time at any given time. The Office shall continually monitor each employee's accumulation and usage of compensatory time to avoid exceeding the limits. If any employee with a balance of eighty (80) hours or more of compensatory time works beyond forty (40) hours in the workweek, he or she must receive compensatory time for the time worked. However, the Office may incur budgetary impacts to cover the expense.

#### 3.5.05 Using Compensatory Time

- A. The employee may consume accrued compensatory time at any time; however, it must be consumed on a schedule reasonably agreed upon by the Sheriff or designee. The Sheriff or designees will encourage all employees with compensatory time accrued to expend that time on a regular basis to prevent rising above the County's maximum limit of eight (80) hours.
- B. Compensatory time must be used prior to the use of vacation leave.
- D. Compensatory time accrued must be taken within the same fiscal year it was earned, unless otherwise approved in writing by the Sheriff. In such case, the Sheriff may extend the time for using accrued compensatory time up to ninety (90) days beyond the beginning of the next fiscal

year. Failure to ensure the use of the accrued compensatory time within these time limits may result in budgetary impacts to the Office to cover the expense.

### 3.5.06 Position Transfers and Changes

- A. When an employee is transferred to another position within the County, and has a compensatory time balance at the time of such transfer, the following will occur:
- (1) If the employee is transferred from one division to another division within the Office, and
  - (2) If the employee maintains the same pay rate, then the compensatory time will remain on account for future consumption; or
  - (3) If the employee is placed into a position with a different pay rate, then the compensatory time will be used at the rate of pay prior to the change taking effect, or will be paid out from the Office's salary account prior to the change taking effect.
  - (4) If the employee is transferred from the Office to another department within the County, the Office will allow the employee to use all accrued compensatory time at current rate of pay, or will authorize a payment of the balance from the Office's salary account prior to the transfer.
  - (5) If the employee's FLSA status changes from non-exempt to exempt, the Office will allow the employee to use all accrued compensatory time at the current rate of pay or will authorize a payment of the balance from the Office's salary account prior to the change in status becoming effective.
  - (6) When the Office authorizes payment for compensatory time in lieu of granting the actual time off before a change is made, the Office must notify the Payroll Division of the County Auditor's Office immediately to ensure timely payment to the employee.

### 3.5.07 Payment for Accrued Compensatory Time

A non-exempt employee will be paid for all compensatory time the employee has earned, but not used, at the time of separation from employment.

Commissioners Court has the discretion to authorize payment for unused compensatory time at any time.

### 3.5.08 Recordkeeping

In all cases, the electronic time card for each non-exempt employee will be the official record of time worked and time taken. Appropriate supporting documentation must be maintained in the Office for granting of compensatory time off made to any employee. All non-exempt employees must record their total workweek hours accurately on their electronic time cards.

### 3.5.09 Exempt Employees

There is no legal requirement, nor is the County obligated, to pay overtime or grant compensatory time to FLSA-exempt employees. The Sheriff or designees may grant compensatory time off on an hour for hour basis for hours worked in excess of the forty (40) hour work week to an exempt employee.

## SECTION 6: RESERVED FOR EXPANSION

### SECTION 7: TIMEKEEPING AND ATTENDANCE

3.7.01 The accurate and consistent recordation of time by Sheriff's Office employees serves to create accountability to the public and equity to employees. Federal and state regulations require employers to maintain accurate employee time records. Sheriff's Office employees utilizing the County's payroll system, are responsible for accurately recording all time worked in the County's time and attendance system (KRONOS).

3.7.02 Procedure

All employees (or those designated by the Office to perform this function) must accurately submit their work time through KRONOS on a bi-weekly basis. However, daily time entry is a best practice and is encouraged.

#### A. KRONOS

- (1) Employees, or designee, must enter, save, and approve their actual work time and non-worked<sup>1</sup> time in the KRONOS time and attendance system.
- (2) Employees, or designee, must electronically submit their time sheet at the end of each pay period for approval by their supervisor, or the Office designee responsible for KRONOS.
- (3) Supervisors, or designee, shall review and approve timesheets submitted by their employees in KRONOS on a bi-weekly basis. Supervisors must approve all timesheets at the end of each pay period by the deadlines set by the County Auditor's Office.
- (4) In the event corrections must be made to an approved timesheet after the deadline, the supervisor, or designee, must notify the Payroll Division of the Auditor's Office of the changes as soon as possible.
- (5) Only the County KRONOS system may be used to track, record, or submit time worked or leave taken. No other method of time and attendance may be used for time tracking purposes.
- (6) To ensure trust and integrity within this system, employees and supervisors who discover inappropriate and/or inaccurate time reporting must inform a supervisor as soon as reasonably possible.

3.7.03 Policy Application

County payroll codes are used to specify the type of attendance being reported (e.g. work time, sick leave, vacation, etc.). Codes are also utilized to specify the accounts and/or programs being charged. To ensure time recording is accurate, employees must use appropriate KRONOS codes when coding their time.

#### A. KRONOS Codes

- (1) Most employee time sheets will default to "hours worked" based on their relevant schedules. However, employees must adjust their time, as necessary to accurately report their time, in accordance with the published pay codes in KRONOS.
- (2) Non-exempt employees who code hours in excess of 40 hours per week will accrue compensatory time in accordance with the Fair Labor Standards Act (FLSA).

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<sup>1</sup> Non-worked time refers to any leave that would result in pay that was not physically worked. (e.g. Vacation, Sick Leave, etc).

B. Discipline

Employees and Supervisors who violate this policy are subject to corrective or disciplinary action, up to and including termination.

CHAPTER 4

RESERVED FOR EXPANSION

SECTION 1. RESERVED FOR EXPANSION

## CHAPTER 5

### LEAVE POLICIES

#### SECTION 1. NOTIFICATION OF ABSENCE (Revised March 14, 2018)

- 5.1.01 Regular attendance is important to the overall operation of the Office. If for any reason an employee is unable to report for work, notification shall be made by the employee to the employee's immediate supervisor at the earliest time possible and in compliance with the notice requirements below. Based on prior timely notification, the Sheriff or his designee shall determine an employee's eligibility to receive paid leave. An employee who is not on authorized leave and who fails to report to work for three (3) days shall be deemed to have resigned and shall be removed from the payroll. If the employee is physically unable to report the absence to his supervisor, the employee shall make the best possible effort to have some other person report the absence to the supervisor at the earliest time. If a person other than the employee reports the absence to the supervisor, when the employee returns to work, the employee will provide the supervisor with documentary evidence showing good cause for the employee's inability to personally notify the supervisor.

#### SECTION 2. SICK LEAVE (Revised October 20, 2021)

- 5.2.01 All full time, regular non-elected employees who have completed 90 days of full time service are eligible to use accrued sick leave with pay when the employee is unable to perform his duties because of personal medical needs, family care or bereavement, care of an immediate family member with a serious health condition, or adoption-related purposes.
- 5.2.02 Sick leave is accumulated from the date of employment for all full time regular non-elected employees at the rate of 4.6153 hours per pay period. (120 hours per year.) Maximum accumulation is 720 hours (90 days).
- 5.2.03 To be eligible for paid sick leave, the employee is required to notify his/her supervisor at the beginning of the workday, at least one hour prior to the scheduled reporting time, unless exigent circumstances exist. Absences of three (3) or more consecutive workdays for sick leave or dependent illness must be verified by a licensed physician. Written verification, in the form of a certificate or statement, must be presented to the supervisor upon returning to work. Written verification may also be required for any illness or injury if sick leave abuse is suspected.
- 5.2.04 Once notice of separation is given, the employee may not take leave without prior approval from the Sheriff except for employees covered by the Agreement between El Paso County and the El Paso County Sheriff's Officer's Association.
- 5.2.05 Immediate family member is defined for purposes of this policy as: spouse, registered domestic partners, children, parents, grandparents, grandchildren, siblings, guardianship relationship, and in-laws and step/half relationships with the same degree.
- 5.2.06 In the event the employee's sick leave balances are depleted, the employee may qualify for sick leave donations in accordance with the County's Sick Leave Pool Program. 1

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1 See the Sick Leave Pool policy for further details.



5.2.07 Performance Evaluations

The Sheriff may choose to link non-protected<sup>1</sup> employee absences due to sick leave to their performance evaluations. While the Sheriff retains discretion to establish internal procedures regarding acceptable absences standards, a recommended matrix is below:

Exceeds Standards rating:	0 to 64 hours
Meets Standards rating:	64.01 to 120 hours
Below Standards rating:	120.01 + hours

**SECTION 3. VACATION LEAVE (Revised October 20, 2021)**

5.3.01 Eligibility

Regular full-time and part-time non-elected employees shall be eligible to use vacation leave with pay after 180 days of continuous service with the County.

5.3.02 Accrual Rates

Based on years of service to the County<sup>2</sup>, non-elected employees, other than employees covered by the agreement between The County of El Paso, Texas and the El Paso County Sheriff's Officers Association shall accrue vacation leave at the following rates:

**FULL-TIME EMPLOYEE:**

**YEARS**

up to 5 years

**ACCRUAL RATE**

80 hours per year,  
earned at the rate of 3.077  
hours per pay period, up to a maximum of 160 hours.

5 thru 15 years

120 hours per year,  
earned at the rate of 4.616  
hours per pay period, up to maximum of 240 hours.

15 years or more

160 hours per year,  
earned at the rate of 6.154  
hours per pay period, up to a maximum of 320 hours.

**PART-TIME EMPLOYEE:**

**YEARS**

up to 5 years

**ACCRUAL RATE**

40 hours per year,  
earned at the rate of 1.539  
hours per pay period, up to a maximum of 80 hours.

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<sup>2</sup> Protected sick leave refers to that which is protected by FMLA, ADA, Workers Compensation or any other legally protected time.

<sup>1</sup> See the Reemployment/Reinstatement Policy for accrual rate guidelines for those employees returning to work for the County after voluntary resignation.

5 thru 15 years	60 hours per year, earned at the rate of 2.308 hours per pay period, up to a maximum of 120 hours.
15 years or more	80 hours per year, earned at the rate of 3.077 hours per pay period up to a maximum of 160 hours.

5.3.03 5.3.03 Leave Leniency

Due to the COVID-19 pandemic, and its effect on Sheriff's employees' ability to utilize vacation during this time, effective August 31, 2020 maximum accrual rates will be increased by 25% for each category above until October 30, 2021. Thereafter, normal maximum accrual rates will resume in accordance with this policy.

- (1) Example: If the current maximum is 160 hours, the maximum rate would increase by 25% or 40 hours - for a total of 200 hours.
- (2) Once normal maximum accrual rates resume, any hours accrued in excess of the maximum limit during the leave leniency period shall not be forfeited, but shall remain in the employee's accrual bank for future use.
  - a. This leave will be captured under "Vacation Leniency" in Kronos.
  - b. Excess hours accrued during the leniency period shall be used first to reduce the total accrued vacation hours.
  - c. Vacation accruals will resume in accordance with section 5.3.04 of this policy after excess hours accrued during the leniency period have been used.
- (3) An employee who separates from employment with the Sheriff's Office will be paid for accrued vacation leniency leave balances remaining at the time of separation.

5.3.04 Accrual Maximums

Vacation leave may be accumulated up to a maximum of two (2) times the annual vacation benefit depending on the length of service. Days earned in excess of the accrued limit will be forfeited.

5.3.05 Vacation Requests

An employee must request vacation leave in advance from the Sheriff or his designee. The Sheriff may establish a policy regarding the procedure employees must follow to submit requests for vacation time. Requests for annual leave will not be unreasonably denied; however, Office operations must be considered in granting requests.

5.3.06 Payment Upon Separation

After 180 days of continuous service, a non-elected employee who separates from employment with the County will be paid for accrued vacation leave.

5.3.07 Vacation Leave Upon Transfer

Generally, if an employee is transferred from one County department and remains in a full-time employment capacity, all unused vacation leave shall remain to the employee's credit as though no change had been made. Any previously approved leave shall be resubmitted for approval by the receiving department.

Employees transferring from a full-time employment status to a part-time status shall retain any unused vacation leave; however, accrual rates will change according to their new employment status based on Section 5.3.02 of this policy.

5.3.08 Holidays During Vacation Leave

Official County holidays occurring during the employee's vacation leave shall not be counted against vacation leave balance.

**SECTION 4. ADMINISTRATIVE LEAVE (Revised March 14, 2018)**

5.4.01 At the discretion of the Sheriff, an employee may be granted Administrative Leave with pay for any of the following reasons:

- A. Jury Duty;
- B. Voting in National, State, County and City elections;
- C. During the pendency of an internal affairs or criminal investigation;
- D. To attend mandatory EAP appointments, if the appointments are during working hours;
- E. When subpoenaed to attend any court proceeding; or
- F. Up to five (5) workdays per year for other reasons as authorized by the Sheriff.

**SECTION 5. MILITARY RESERVE TRAINING (Revised March 14, 2018)**

5.5.01 For periods of active military service, a county employee shall be granted up to 15 working days of leave within a fiscal year without loss of salary or a reduction of any accrued vacation or sick leave. Compensation of employees classified as Regular Part-time will be based on the established work schedule for the employee.

**SECTION 6. RESERVED FOR EXPANSION**

**SECTION 7. FUNERAL LEAVE (Revised October 2, 2018)**

5.7.01 Full-time employees shall be granted up to twenty-four (24) hours of funeral leave (Part-time employees shall be granted up to twelve (12) hours of funeral leave) to make arrangements for or to attend the funeral of an immediate family member as authorized by the Sheriff.

5.7.02 In the case of the death of any other relative or friend, the employee may be granted funeral leave for up to four (4) hours to attend the funeral as authorized by the Sheriff.

5.7.03 Immediate family member is defined for purposes of this policy as: spouse, registered domestic partners, children, parents, grandparents, grandchildren, siblings, guardianship relationship, and in-laws and step/half relationships within the same degree.

- 5.7.04 Should additional time be necessary, please refer to alternate County leave policies.
- 5.7.05 Funeral Leave provided pursuant to a Collective Bargaining Agreement exclusively governs the funeral leave provided to employees covered by that Agreement.

**SECTION 8. HOLIDAYS (Revised November 5, 2024)**

- 5.8.01 Non-bargaining unit employees will observe the holidays designated by official action of the El Paso County Commissioners Court.

- 5.8.02 Holiday Leave

The Sheriff's Office shall observe the following holidays for its non-collective bargaining covered employees:

NEW YEAR'S DAY: January 1  
MARTIN LUTHER KING DAY: 3rd Monday in January  
PRESIDENT'S DAY: 3rd Monday in February  
CESAR CHAVEZ DAY: March 31  
GOOD FRIDAY: Friday before Easter Sunday  
MEMORIAL DAY: Last Monday in May  
JUNETEENTH: June 19  
INDEPENDENCE DAY: July 4  
LABOR DAY: 1st Monday in September  
INDIGENOUS PEOPLES' DAY: 2nd Monday in October  
VETERANS DAY: November 11  
THANKSGIVING DAY: 4th Thursday in November  
DAY AFTER THANKSGIVING: Friday after Thanksgiving  
ADDITIONAL HOLIDAY: December 23  
CHRISTMAS EVE: December 24  
CHRISTMAS DAY: December 25  
ADDITIONAL HOLIDAY: December 26  
ADDITIONAL HOLIDAY: December 27  
ADDITIONAL HOLIDAY: December 30  
NEW YEAR'S EVE: December 31

- 5.8.03 In the event a holiday falls on Sunday, the following Monday shall be deemed to be the holiday. In the event the holiday falls on Saturday, the preceding Friday shall be deemed to be the holiday. In the event the scheduled holiday shall be moved to either a Friday or Monday and that day is already observed as another County holiday, the scheduled holiday shall be given on the next available business day.
- 5.8.04 When it is not feasible to grant holiday leave at the appropriate time to employees assigned to shifts on an around-the-clock operation, holiday leave shall be changed to a different date convenient to the Office, but must be taken within thirty (30) days before or after the holiday.
- 5.8.05 In special cases, a non-exempt employee not assigned to an around-the-clock operation who is required to work on a regularly scheduled holiday, with prior approval by the Sheriff and where subsequent time off is not practical, shall be compensated at the employee's regular rate of pay for each hour worked plus holiday pay.
- 5.8.06 Employees on Workers' Compensation or Leave without Pay for any reason will not be paid for a holiday

5.8.07 An employee must work, or be on paid leave, the day before and after a holiday to be paid for the holiday; however, if the holiday is the employee's final day of Sheriff's Office employment and the employee is officially retiring from the Sheriff's Office through TCDRS, or it is the end of the term for the Sheriff, the employee shall be paid for that final day.

**SECTION 9. LEAVE WITHOUT PAY (Revised March 14, 2018)**

5.9.01 At the discretion of the Sheriff, an employee may be granted leave without pay. Leave without pay is generally discouraged because it deprives the Office of needed services. The granting of leave without pay is a matter for the discretion of the Sheriff and the denial of such request is not subject to review or grievance.

5.9.02 An employee may be granted leave of absence without pay for the following reasons:

- A. For the recovery from an illness or disability after the exhaustion of accrued sick leave and vacation leave;
- B. When return to work would threaten the health of others;
- C. When the service to be performed while on leave without pay will contribute to the public welfare;
- D. To provide necessary care for a family member who is ill or incapacitated after the exhaustion of sick and vacation leave;
- E. To participate in a training program or obtain educational achievement that will increase job ability or qualify an employee for advancement within the County.
- E. Any other reason deemed acceptable by the Sheriff.

5.9.03 Prior to granting an employee leave without pay, a request must be submitted to the Sheriff for approval. The date leave without pay begins and terminates along with a brief explanation as to the need for the leave must be included in the request.

5.9.04 An employee who is granted leave without pay will continue to receive paid health and life insurance benefits from the County for a period not to exceed ninety (90) days in any 12-month period as long as the employee continues to pay his portion of the premiums; thereafter, the paid health and life insurance benefits will cease. An employee who is granted leave without pay will not accrue vacation and sick leave benefits while on leave without pay status.

5.9.05 An employee may remain on leave without pay status for a maximum of ninety (90) days within any 12-month period. Any employee who remains on leave without pay status more than ninety (90) days shall be separated for excessive absenteeism.

5.9.06 An Employee placed on leave without pay is entitled to reinstatement to the same or similar position upon the termination of the leave period; as such, the Sheriff may fill the vacant position only with a temporary employee. Temporary employees shall be separated from employment upon employee's return.

**SECTION 10. WORKER'S COMPENSATION (Revised January 21, 2020)**

5.10.01 Purpose

The County of El Paso provides workers' compensation benefits for incidental injury or death and all occupational illnesses arising out of and in the course of employment in accordance with Texas workers' compensation regulations as administered by the Texas Department of Insurance (TDI). The purpose of this rule is to establish uniform guidelines and procedures, consistent with TDI workers' compensation regulations and to identify associated responsibilities for injured employees and supervisors. The intent of this rule is to comply with Texas law. To the extent there is a conflict between this rule and Texas law, this rule is to be interpreted as consistent with Texas law.

5.10.02 Medical Treatment

When an incident occurs, proper medical attention should be sought. Per the Workers' Compensation Act and Rules, injured employees have the right to choose their own treating doctor should they require medical treatment for an injury sustained on-the-job. Employees may contact the Human Resources Department, Risk Management Division should they need information on how to proceed with obtaining medical treatment (Phone: 546-2218 ext.4286).

5.10.03 Reporting Procedures

- A. Injured employees, or persons acting on employees' behalf, must report any on-the-job injury to their supervisor or the Sheriff immediately following the incident.
- B. Employees whose injuries results from an occupational disease, or persons acting on employees' behalf, must give notice no later than the 30th day after the date the employees knew or should have known the injury may be related to their employment.
- C. Supervisors must notify Human Resources Department, Risk Management Division immediately following an on-the-job injury and submit an **Investigation Report of Occupational Injury/illness** <http://intranet/hr/workcomp.htm> within 48 hours.

5.10.04 Investigation Procedures

- A. Immediate supervisors, or other designated individuals, will investigate all on-the-job injuries or occupational illnesses occurring under their authority. The purpose of the investigation is be to determine what happened, why it happened, and what steps should be taken to prevent a reoccurrence of the incident.
- B. Any attempt to defraud El Paso County with a false workers' compensation claim will result in disciplinary action up to and including termination. The case may also be referred to the District Workers' Compensation Fraud Unit.
- C. The Principle Purposes of Incident Investigation are:
  - (1) To determine the cause of an incident so similar incidents may be prevented through mechanical improvement, better supervision, and/or employee instruction.
  - (2) To publicize the particular hazard among employees and their supervisors and to direct attention to incident prevention in general.
  - (3) To determine facts bearing on legal liability.

#### 5.10.05

#### Conducting Investigations

- A. Supervisors must investigate and document every on-the-job injury involving personnel under their supervision, in order to take or recommend corrective action and prevent recurrence of similar incidents.
- B. Each investigation should be started as soon as possible after the incident. A delay of only a few hours may permit important evidence to be either intentionally or unintentionally destroyed or removed.
- C. Supervisor conducting investigations should follow the following guidelines:
  - (1) Arrive at the scene as soon as possible in order to obtain facts while they are still fresh.
  - (2) Interview the injured employee and all witnesses to obtain the facts surrounding the incident.
  - (3) Record information as to conditions present at the time of the incident, including: weather, mechanical defects, or other unsafe working conditions. Also note any available physical evidence. If possible, take photographs of the scene.
  - (4) Note any unsafe acts that may have contributed to the incident.
- D. Reports of Investigations:
  - (1) Investigation results must be submitted to the Human Resources Department Risk Management Division on Part III of an Investigation Report of Occupational Injury/Illness form within 48 hours. The report should include information that answers the following questions:
    - a. WHO/WHAT was injured or damaged?
    - b. HOW did the incident happen?
    - c. WHERE did it happen?
    - d. WHEN did it happen?
    - e. WHO saw it happen?
    - f. WHAT persons, equipment, materials and conditions were involved?
    - g. WHY did the incident happen?
    - h. WHAT could/should have been done to prevent the incident and the reoccurrence of similar incidents?

Supervisors must be particularly thorough in determining WHY an incident occurred. For example, in a case of an employee eye injury, supervisors might list the cause as "failure to wear goggles." Examples of questions used to determine WHY the injury occurred include: Why didn't the employee wear goggles? Were goggles available? Was the employee instructed to wear them, by what means was the employee instructed to wear goggles and why didn't the employee wear them?

#### 5.10.06

#### Handling Emergencies

- A. Judgment is a key factor in the handling of any emergency. Employees are expected to exercise their best judgment based upon the circumstances.
- B. The following are guidelines for handling emergencies:
  - (1) Call the appropriate emergency service (medical, fire, police, or rescue). Call 911.
  - (2) Notify the supervisor.
  - (3) Follow reporting and investigation requirements.

**\*IF THERE IS ANY QUESTION WHATSOEVER ABOUT THE SERIOUSNESS OF AN INJURY, CALL FOR HELP AND TAKE EVERY PRECAUTION TO PRESERVE LIFE.**

5.10.07

Worker's Compensation Leave and Benefits

A. Compensable Injury:

- (1) In the event an employee sustains an on-the-job injury compensable as a workers' compensation claim and which requires the employee to be absent from work, the employee will be placed on Workers' Compensation Leave until the employee reaches Maximum Medical Improvement (MMI) or returns to work, whichever occurs first. The County will provide the employee the notice and information required under FMLA. Any FMLA Leave will run concurrent with Workers' Compensation Leave, except as provided for employees covered under the collective bargaining agreement.
- (2) Payment under workers' compensation: Employees who sustain a compensable work related injury which requires them to be off work will be paid according to the Texas Department of Insurance, Division of Workers' Compensation Act and Rules. Employees covered by the collective bargaining agreement will be paid in accordance with Article 3, Section 52e of the Constitution of the State of Texas and Article 22 of the Articles of Agreement between the County of El Paso and the El Paso County Sheriff's Officers' Association.
- (3) Employees become eligible for Temporary Income Benefits (TIBs) starting with the 8<sup>th</sup> day of disability. The Sheriff or his designee may apply the employee's sick leave, comp time or vacation leave during the waiting week or first seven (7) days of lost time at the voluntary written request of the employee in accordance with County leave policies.

B. Health, Dental, Life, and Related Insurance Benefits

- (1) During the period employees are on Workers' Compensation Leave, the County shall continue to pay health and dental insurance benefits as long as the employees continues to pay their portion of the premiums within the required timelines. Should employees fail to pay their portion of the insurance premiums, they shall be dropped from coverage. Upon return to work, employees will have 31 days to reinstate equivalent insurance coverage dropped during their absence in accordance with a qualifying event or FMLA.
- (2) Employees must make arrangements directly with the Auditors Department to continue to pay their share of the cost of any insurance coverage employees have elected under the County's benefit program.

C. Leave Accrual

Employees who are off work and receiving weekly workers' compensation payments will continue to accrue vacation leave and sick leave.

5.10.08

Physician Letter - Prior to reinstatement, the employee must submit a Work Status Report from the treating physician stating the employee is physically able to return to work with or without reasonable accommodations.

5.10.09

Modified Duty

A. Eligibility:

- (1) The County of El Paso offers eligible employees the opportunity to work under the Modified Duty Program after sustaining a compensable on-the-job injury.



- (2) When employees of the County of El Paso sustain a compensable work related injury, the treating doctor may release employees to return to work with temporary physical restriction(s). In those circumstances, the County of El Paso will make reasonable efforts to enable injured employees to return to work with the temporary, physical restrictions that progress the employees toward their regular duties as they recover.
- (3) This section describes the requirements and limitations for modified or alternate duty assignments for employees who are out on workers' compensation leave who have not yet reached Maximum Medical Improvement.
- (4) No assignment may be made to modified duty without the approval of the Risk Management Division and the Sheriff or his designee.
- (5) The County of El Paso reserves the right to adapt modified duty assignments as the injured employee's medical condition improves and physician-imposed physical restrictions are changed.
- (6) An employee on leave due to a work-related injury may be eligible to return to work in a modified capacity when the County receives the treating doctor's Work Status Report which documents a release to return to work with restrictions.

B. Return to work Modified Duty options:

- a. **Modified Duty:** The Office is able to return the employee to their regular job with modifications as per the Work Status Report or the employee may be placed at a different job within the Office that meets the work restrictions;
- (2) **Alternate Duty:** The employee may be placed temporarily in another County Department that needs assistance and is able to accommodate the work restrictions.

C. Work Status Reports: Employees must turn in the Work Status Report to the Risk Management Division on the date it is received from their treating doctor. Employees on a no-work status or modified duty status must present an updated Work Status Report at the minimum of every 30 days.

D. Length of Modified or Alternate Duty:

Modified or Alternate duty is limited to 90 calendar days. A 30 day extension may be granted on a case by case basis, if medical circumstances warrant, at the discretion of the Chief Human Resources Officer or her designee.

E. Monetary Compensation:

Employees working modified duty will receive their regular salary for hours worked. If the modified duty assignment is available only for a portion of the employee's normal weekly hours or the employee is earning less than their average weekly wage, the employee will be compensated through workers' compensation (TIBs) based upon the Workers' Compensation Act and Rules of the State of Texas.

F. Refusal of Modified Duty Assignment:

Any employee who refuses to accept a modified duty work assignment in response to a written Bona-Fide-Offer of Employment may be separated from the County of El Paso.

G. Maximum Medical Improvement:

- (1) Upon Risk Management Division being notified of the MMI, Risk Management Division will submit a letter to the employee informing the employee they will have 90 days, from the date of the letter, to return to work with or without reasonable accommodations to perform the essential functions of the position for which they were hired. If the employee is not able to return to work after the 90 day period, his employment will be terminated.

- (2) At the time an employee is notified of being certified at Maximum Medical Improvement (MMI), the employee will no longer qualify to work modified or alternate duty and will be placed on leave without pay status unless the employee has other leave balances available. Should the employee desire to use accrued leave balances, the employee must request paid leave in writing from the Sheriff, or his designee. Use of accrued leave will not exceed 90 calendar days from the date of the notification letter.
- (3) Employees covered by the collective bargaining agreement who's employment is terminated because they are unable to return to work, the former employees will be entitled to salary payments in accordance with Article 3, Section 52e of the Constitution of the State of Texas and Article 22 of the Articles of Agreement between the County of El Paso and the El Paso County Sheriff's Officers' Association during the duration of the incapacitation or until the end of the current term of office of the Sheriff, whichever occurs first. The salary shall be the base salary the former employee received at the time of separation. Any deductions mandated by State and Federal law shall continue. All fringe benefits or voluntary deductions will cease, including but not limited to retirement, life and health insurance, union dues, workers compensation premiums and unemployment deductions.

This provision will not be construed to limit any employee rights, including eligible benefits under the Family Medical Leave Act or Americans with Disabilities Act.

H. Employee Responsibilities:

Employees are expected to perform the modified duty work with the same diligence, care and effort as their regular duty work. Employees will not engage in any behavior or task beyond their physical limitations as set forth in the Work Status Report at work or outside of work.

J. Supervisor Responsibilities:

Supervisors will work with the Risk Management Division to identify areas of availability or modified duty; assist in monitoring employees to ensure compliance with work restrictions; and support their goal to return to work at regular duty.

K. Risk Management Responsibilities:

The Risk Management Division will facilitate employees' return to work by consulting with employees, the Office, employees' treating doctors, and the Third Party Administrator to ensure a safe return to work.

***\*This policy will not be construed or interpreted to mean any employee has a right to a modified duty assignment or that the County of El Paso is compelled to assign an individual to a modified duty status. Modified duty is granted on a case by case basis, based on the availability and need of the Office as well as the knowledge and skills of the employee, while operating in a modified capacity.***

SECTION 11. SICK LEAVE POOL (Revised April 20, 2022)

5.11.01 Policy

The Commissioners Court has established a program to allow employees to voluntarily contribute sick and/or vacation leave hours to a County-wide sick leave pool (“SLP”) The purpose of the Sick Leave Pool is to help alleviate the financial hardship caused when a catastrophic illness or injury forces an employee to exhaust all accrued paid leave and compensatory time and subsequently lose compensation from the County.

The El Paso County Sick Leave Pool policy has been established pursuant to the authority in Subchapter E, Section 157.071 et. al. of the Texas Local Government Code.

This policy is not intended, nor shall it be interpreted, to interfere with an employee’s rights in accordance with the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), or the Worker’s Compensation Act.

5.11.02 Definitions

Administrator - The Chief Human Resources Officer, or designee, serves as the Administrator of this program.

Catastrophic Injury or Illness -A catastrophic illness and/or injury is a serious debilitating illness, injury, impairment, or physical or mental condition that affects the employee or the employee’s immediate family member and is;

- A. terminal, and/or life-threatening, and
- B. present for a minimum of thirty (30) consecutive calendar days; and
- C. forces the employee to exhaust all of his/her accrued leave; and
- D. involves:
  - (1) A period of illness or injury or treatment connected with inpatient care (e.g. overnight stay) in a hospital, hospice, or residential medical care facility for ten (10) or more consecutive days; or
  - (2) A period of illness or injury requiring absence from work of ten (10) or more consecutive work days, and that also involves continuing treatment by (or under the supervision of) a licensed physician.

Employee - Sheriff’s employee with twelve (12) or more months of continuous employment with the County who is paid from the general fund of the County, from a special fund of the County, or from special grants paid through the County.

Immediate Family Member - Spouse, registered domestic partners, children, parents, grandparents, grandchildren, siblings, guardianship relationship, and in-laws and step/half relationships within the same degree.

Sick Leave Pool Bank - The system to track sick and vacation leave donated by employees for allocation to eligible employees.

5.11.03

Contributions

- A. Contributions to the SLP are voluntary and are not required in order for eligible employees to participate in the SLP if qualified.
- B. The Administrator will publicize the period of donation to the sick leave pool at least once a year; however, the frequency, and method of publicizing will depend on the balance of the SLP and the current and/or projected usage.
- C. Employees wishing to contribute sick and/or vacation hours during the donation period must contribute a minimum of one (1) day (8 hours) of accrued sick or vacation time but no more than five (5) days (40 hours) and have at least five (5) days (40 hours) of accrued sick or vacation leave time remaining after their contribution.
- D. An employee who separates employment may donate not more than ten (10) days (80 hours) of accrued sick and/or vacation leave time earned by the employee to take effect immediately before the effective date of separation.
- E. Once an employee contributes hours to the SLP, the hours become the property of the SLP, and the donating employee has no further claim to these hours.

5.11.04

Eligibility

In order to use the SLP, eligible employees must meet the definition of employee and the following criteria:

- A. Must have exhausted all the accrued paid leave and compensatory time to which the employee is otherwise entitled before being eligible to request time from the SLP.
- B. Must not have a written record of disciplinary and/or corrective action for leave abuse or misuse of leave within the past twelve (12) months from the date of the SLP request.

5.11.05

Exclusions

The following describe situations which exclude employees from participating in the SLP program:

- A. Employees who are receiving Worker's Compensation benefits from the County or any other employment held by the employee.
- B. Employees receiving Short and Long Term Disability and/or Supplemental Benefits to include social security disability benefits.
- C. Employees who have committed fraud or misrepresentation in the request or use of catastrophic leave.
- D. Employees on active Duty in the US Armed Forces or have been recalled to duty to receive treatment.

#### 5.11.06

#### Requests to Use SLP

- A. Employees must apply to the SLP using the designated SLP Request Forms: SLP Request Form and SLP Certification Form. If the employee has FMLA documents on file, the Administrator may use these forms in lieu of the SLP Certification Form provided the FMLA documents include information for the Administrator to make a determination. If the employee's FMLA documents on file are not sufficient information to make a determination, the employee will be required to complete the SLP Certification Form.
- B. The SLP Request Form must be completed in its entirety, signed by the direct supervisor through the chain of command and forwarded to the Administrator.
- C. The SLP Certification Form must be completed in its entirety by the employee and the medical provider.
- D. The SLP forms must be submitted no later than 30 calendar days from the date all accruals were exhausted.
- E. If an employee's Short or Long Term Disability and/or Supplemental Benefits, to include social security disability benefits ends, the SLP forms must be submitted no later than 30 calendar days from the date the benefits cease.
- F. Failure to submit a completed SLP Request Form or the SLP Certification Form may cause a delay and possible denial of the request.
- G. If the initial information supplied is inadequate and/or incomplete, the employee may be asked to provide further medical information. Failure to comply with the request for additional medical information may result in delay or denial of the application.
- H. If an employee is physical unable to complete the SLP forms, the employee's family member or the Sheriff may submit the form(s) on the employee's behalf.

#### 5.11.07

#### Withdrawals and Award from the SLP

- A. The Administrator will review the SLP Request and SLP Certification Forms and determine eligibility. If the employee is eligible and meets the requirements, the Administrator will determine the amount of the SLP hours awarded as per this policy which will be allocated on a per pay period basis.
- B. SLP hours cannot be granted beyond the date the employee, or immediate family member, will exhaust FMLA unless leave under the ADA and/or personal leave have been approved.
- C. The maximum amount of sick leave hours awarded cannot exceed the lesser of one-third of the total amount of time in the SLP or 180 days (1440 hours). However, the Administrator shall determine the exact amount that an eligible recipient may draw from the pool based on the SLP balance at the time the request is approved.
- D. All hours used from the SLP will count towards the employee's FMLA entitlement.
- E. The SLP will be administered on a first-come, first-serve basis, determined by the date or time when all necessary information, certification, and releases have been provided. An employee's request to use the SLP hours is not a guarantee that SLP hours will be granted.

- F. An employee may not engage in secondary employment on the same calendar day(s) that the employee is paid with hours from the SLP.

5.11.08 Procedure

A. Donations

- (1) The Administrator shall provide the County Auditor a report of employees donating sick and/or vacation hours to the SLP and the County Auditor shall credit the SLP with the amount of time contributed by the employees and shall deduct the corresponding amount of sick and/or vacation leave from the employees' accrued balances.

B. Withdrawals

- (1) An SLP request along with the SLP forms will be reviewed by the Administrator and any approved leave shall commence at the beginning of the follow pay period after the leave has been approved.
- (2) Once a request has been approved by the Administrator, the Administrator will provide the County Auditor with the pertinent information for the Auditor's to credit the approved amount of time to the employee from the SLP bank.
- (3) An employee using hours from the SLP is treated for all intents and purposes as if the employee were absent on sick leave earned in the course and scope of employment.
- (4) Employees on approved SLP must provide the Administrator with updates from the treating physician at least every 30 calendar days. Failure to do so may result in the use of the SLP program being forfeited.
- (5) Denial of SLP hours is not grounds for filing a grievance and is excluded from the civil service grievance appeal process. SLP is not a right and is awarded based on availability of SLP leave in the SLP Bank, and the eligibility of the employee as determined by the Administrator.

5.11.09 Unused SLP Hours

All unused SLP hours disbursed to the employee will revert to the SLP bank under any of the following conditions:

- A. The employee returns to work in a full-duty, light-duty or modified duty status;
- B. The employee's immediate family member is given a full release by his/her physician;
- C. The employee voluntarily returns to work after caring for the immediate family member;
- D. The employee resigns or is terminated with the County;
- E. The employee voluntarily cancels his/her participation in the SLP;
- F. The employee violates this policy and/or commits fraud or misrepresentation in the request or use of SLP;
- G. The employee exhausted the maximum approved SLP hours awarded; and
- H. The employee or immediate family member is deceased.

5.11.10 Confidentiality

All information received under this policy shall be kept confidential as required by law.

5.11.11 Compliance with Other Policies

All SLP usage, including return to work, shall be in compliance with all applicable County and Sheriff's policies and procedures.

5.11.12 Violation of Policy

Employees who violate the provisions of this policy, or attempt to use the SLP for any reason other than its intended purpose, will not be allowed to participate in the SLP and may be responsible to repay any money received for use of SLP hours. Such violation of policy may also result in disciplinary action, up to and including termination of employment.

5.11.13 Conformance with the Law

If changes to the law or applicable regulations require changes to the provisions of this policy, this policy shall be deemed amended as of the effective date of the law or regulation to be in conformance thereof.

**SECTION 12. LEAVE POLICY FOR DEPUTIES AND DETENTION OFFICERS**

5.12.01 The leave policies contained in The Articles of Agreement between the County of El Paso, Texas and El Paso County Sheriff's Officers Association, Inc. shall apply to all bargaining unit employees.

**SECTION 13. FAMILY AND MEDICAL LEAVE (Revised April 24, 2019)**

5.13.01 The Sheriff's Office **shall** provide eligible employees up to 12 weeks of unpaid leave per year for certain family and medical reasons as set forth herein below. The Sheriff's Office shall return the employee to the same or equivalent position and employment benefits if the employee returns to work after the leave. The Sheriff's Office **shall** continue to pay the employer portion of employee-only health care coverage during the leave.

5.13.02 Eligible Employees

Employees eligible to request family or medical leave are those who:

- A. Have been employed by the County for at least 12 months.
- B. Have at least 1,250 hours of service during the previous 12-month period.
- C. Have **not** used 12 or more weeks of family or medical leave in the previous 12 months.

5.13.03 Eligible Events

The Sheriff's Office is required to grant up to 12 weeks of leave in any 12-month period because of the:

- A. Birth of a son or daughter of the employee, and care after such birth.
- B. Placement of a son or daughter with the employee for adoption or foster care.
- C. In order to care for the spouse or son, daughter or parent of the employee, if such spouse, son, daughter or parent has a serious health condition.
- D. A serious health condition that makes the employee unable to perform the functions of the position of such employee.

- 5.13.04 Serious Health Condition
- The term “serious health condition” means an injury, illness, impairment or physical or mental condition that involves:
- A. Continuing treatment by a health care provider.
  - B. Inpatient care in a hospital, hospice, or residential medical facility.
- 5.13.05 12-Month Period - Will be calculated by taking 12 calendar months immediately preceding the request for leave.
- 5.13.06 Health Care Provider
- A “health care provider” is a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; or any other person determined by the Secretary of Labor to be a capable of providing health care services.
- 5.13.07 Family Leave
- Leave for the birth or placement for adoption/foster care may begin before the birth of the child and must be taken:
- A. Within 12 months of birth or placement;
  - B. All at once, unless agreed otherwise; or
  - C. Intermittent or reduced schedule leave if medically required.
- 5.13.08 Certification - The Sheriff’s Office will require certification of the condition and may require a second opinion.
- 5.13.09 Combined Leave Limits
- If two or more employees wish to take leave to care for the same individual, then there is a combined leave limit of 12 weeks to care for a:
- A. Parent;
  - B. Child; or
  - C. Spouse.
- 5.13.10 Reduced Schedule
- A. Leave for a serious health condition may be taken intermittently or on a reduced schedule if medically necessary.
  - B. The Sheriff may temporarily transfer an employee to an alternative position to accommodate this leave.
  - C. The employee must make the attempt to schedule medical care outside of his/her working hours, or with consideration to the needs of the Office.
- 5.13.11 Paid Leave - The Sheriff’s Office will require all accrued sick leave to be taken and run concurrently with FMLA leave.



5.13.12 Health Care Benefits

- A. El Paso County will continue to pay the employer portion for group health plan coverage for the employee for up to 12 weeks of family or medical leave.
- B. The employee is responsible for paying for dependent health care coverage.
- C. El Paso County may discontinue health care coverage if an employee's health care payment is more than 30 days late.
- D. In order to alleviate the financial strain on an employee of paying for benefits during an unpaid leave, the employee may choose to temporarily drop any coverage (such as dependent coverage, additional life insurance, etc.) during the leave, and have such coverage reinstated upon his or her return in accordance with the health care plan.

5.13.13 Recovery of Health Care Payment

If the employee does not return to work following family or medical leave, the Sheriff's Office may recover its share of health care payments paid during the unpaid portion of the leave, unless the failure to return is due to a qualifying serious health condition or other circumstances beyond the employee's control.

5.13.14 Reinstatement

El Paso County will reinstate an employee returning from family or medical leave to the same or an equivalent:

- A. Position
- B. Pay
- C. Benefits
- D. Shift
- E. Schedule

5.13.15 Notification Requirement-El Paso County

- A. At the time an employee requests family or medical leave, the Sheriff must inform the employee of the:
  - (1) Employee's rights under the Family and Medical Leave Act, as required by law.
  - (2) Specific expectations and obligations of the employee when requesting family or medical leave.
  - (3) Consequences to the employee if he or she fails to meet these obligations.

- B. The initial notification may take place verbally, but must be followed by written notification via a copy of:
  - (1) The Family and Medical Leave form.
  - (2) This Policy.
  - (3) A memo or letter

5.13.16 Notification Requirement for Employees

- A. An employee expecting to take medical leave should make a reasonable effort to schedule the leave so as not to disrupt the Office's operations, subject to the health care provider's approval.
- B. The employee must notify the Sheriff of the need for family or medical leave:
  - (1) 30 days prior to the day the employee last expects to work.
  - (2) **IF** this is not possible, then within 2 days of the day the employee becomes aware of the need for leave. Notice can be given verbally, but the employee must complete the associated request forms (available from the Human Resources Department) as soon as possible to ensure that continuation of medical benefits takes place.
- C. When the employee is unable to give notice personally, notice may be given on behalf of the employee by any other responsible party (spouse family member, medical staff of facility, etc.)

5.13.17 Medical Certification

- A. When the employee requests medical leave, the Sheriff's Office will require that the employee provide medical certification from a health care provider that a serious health condition exists. A form is available from the Human Resources Department.
- B. The medical certification must include:
  - (1) The date on which the serious health condition commenced;
  - (2) The probable duration of the condition;
  - (3) The name, address and telephone number of the health care provider;
  - (4) The name of the patient;
  - (5) Diagnosis; and
  - (6) A statement that the employee's absence from work is required.
- C. This certification must be furnished by the employee within 15 days of the leave being requested.

5.13.18 Additional Certifications

- A. The Sheriff's Office may require a second opinion be obtained from a health care provider selected by the Sheriff's Office, and at the Office's expense. Should the first and second opinions vary, the Sheriff's Office may require the employee to

obtain a third medical certification, at the Office's expense, from a third health care provider designated or approved jointly by the Sheriff's Office and the employee. The opinion of the third health care provider shall be final and binding.

- B. The Sheriff or HR Department will require certification of continued need for leave:
  - (1) Every 30 days.
  - (2) When the employee requests an extension of leave.
  - (3) If the circumstances surrounding the leave change.
  - (4) When the Sheriff's Office receives information that casts doubt upon the continuing validity of the certification.

5.13.19 Failure to Comply

- A. Family and medical leave are granted by the Sheriff's Office with the expectation that the employee will comply with the obligations outlined in these rules.
- B. Failure to do so could result in leave being denied.

5.13.20 Return to Work

- A. **IF** the employee has been away on medical leave for her/his own serious health condition, **THEN** the Sheriff will require that a "**fitness for duty**" release from the health care provider be provided before allowing the employee to return to work.

5.13.21 Seniority

- A. For the purposes of retirement, family or medical leave will not be considered a break in service.
- B. However, the Sheriff's Office is not required to grant accrual of seniority during the leave.

5.13.22 Options

- A. Employees and/or their supervisors seeking further information or help in arranging family or medical leave should contact the Human Resources Department for assistance.
- B. If an employee feels that his/her rights under the Family and Medical Leave Act have been violated, she/he may:
  - (1) Contact the Human Resources Department.
  - (2) File a complaint with the U.S. Department of Labor.
  - (3) Bring a civil action against the County for violation of this policy.
- C. Questions regarding this policy and its accompanying procedures should be directed to the Human Resources Department at (915) 546-2218.

## CHAPTER 6

### PROFESSIONAL CONDUCT

#### SECTION 1. PERSONAL CONDUCT AND AFFAIRS (Revised October 21, 2020)

##### 6.1.01 Code of Conduct

Employees shall conduct themselves in a professional and ethical manner at all times. When performing their day to day duties involving contacts with the public, employees must be aware impressions of the Sheriff's Office are formed, in part, upon their speech, conduct and general demeanor. Thus, employees are expected to be well-groomed, professional in appearance, reliable, helpful, courteous and patient, in order to inspire confidence in the integrity and reliability of the Sheriff's Office, and the services it provides. An employee should not engage in behavior during non-business hours likely to reflect badly on the reputation of, or undermine public confidence in, the Sheriff's Office, including conduct which would impair employees' performance of their jobs. While on duty, employees will maintain a work environment free from intimate, romantic or dating relationship gestures inappropriate for the work environment. Additional standards may be determined by the Sheriff.

##### 6.1.02 Supervisory Conduct

Supervisors shall conduct themselves with professionalism, integrity, and exercise appropriate authority for their position. Behaviors or actions that diminish the perception of these qualities will be admonished.

During normal working hours, employees will strive to maintain a work environment that is free from inappropriate (intimate, romantic or dating) relationships between supervisors and their subordinates or between employees involved in any other power-differentiated relationship. Power-differentiated relationships can lead to sexual harassment or the perception of harassment, and adversely affect employee morale, workplace operations, and productivity because of favoritism, or unfair treatment or the perception of such treatment.

A "power-differentiated relationship" is any supervisor-subordinate work relationship or other work relationship in which one employee supervises or manages (directly or indirectly) another employee or makes decisions concerning another employee's work activities, conditions, or privileges of employment. The Sheriff does not otherwise discourage friendship or social activities among its employees.

In order to effectuate the purposes expressed above, if an intimate, romantic, or dating relationship develops between a supervisor and a subordinate, the supervisor involved in the relationship must promptly report to the Sheriff who shall investigate and take appropriate action to resolve the workplace relationship issues through transfer, discipline or other available options.

##### 6.1.03 Code of Ethics

All employees shall be bound by the El Paso County Code of Ethics.

##### 6.1.04 Confidentiality

All information concerning Sheriff's Office business must be held in strict confidence and must not be discussed with others on or off the job except for purposes of necessary Sheriff's Office business. Employees should remain mindful that business related discussions are not be had in any place or manner that could be overheard by members of the public or other persons not working on the matter being discussed.

## SECTION 2. CONFLICT OF INTEREST (Revised October 21, 2020)

- 6.2.01 The Sheriff requires all employees to *avoid* any conflict between their interests and those of the County or the Sheriff's Office, and to *disclose* promptly any actual or potential conflicts.
- 6.2.02 The purpose of this policy is to ensure that the name, reputation, and integrity of the County and the Sheriff's Office are not compromised. The fundamental principle guiding its implementation is that no employee should have, or appear to have, any personal interests, relationships, or affiliations that conflict with the best interests of the County or the Sheriff's Office.
- A. It is impossible to give an exhaustive list of situations that might present a conflict. However, among the most common situations that may constitute a conflict are:
- (1) Holding an interest in or accepting free or discounted goods from any company or organization that does, or is seeking to do, business with the County or the Sheriff's Office, by any employee who is in a position to directly or indirectly influence either the County's or the Sheriff's decision to do business, or the terms upon which business would be done with such company or organization.
  - (2) Being employed by (including working as a consultant) or serving on the board of any organization that does, or is seeking to do, business with the County or the Sheriff's Office.
  - (3) Gaining personally, e.g., through commissions, loans, expense or travel reimbursements or other compensation, from any company or organization doing or seeking to do, business with the County or the Sheriff's Office.
  - (4) Partaking in an auction of County or Sheriff's Office Property or partaking in an auction conducted by the County or Sheriff's Office.<sup>3</sup>
- B. A conflict of interest may also exist when a member of an employee's immediate family is involved in situations described above.
- (1) For purpose of this policy, refer to the County Ethics Code's definition of immediate family.
- C. Employees shall not acquire a financial interest at a time when they believe or have reason to believe that the financial interest will be directly affected by an official action or decision made in their employment capacity.
- D. Employees shall not benefit personally by virtue of their employment.
- E. It is the responsibility of the employee to report promptly to the Sheriff any actual or potential conflict that may exist between the employee (and employee's immediate family) and the County or the Sheriff's Office.
- (1) It is the responsibility of the Sheriff to consult with the HR Department and the County Attorney's Office regarding reported conflicts which would be in violation of this policy.

## SECTION 3. RESERVED FOR EXPANSION

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<sup>3</sup> Refer to County's Purchasing Policies and Procedures.

**SECTION 4. CONDUCT OF EMPLOYEES AND USE OF COUNTY OWNED PROPERTY**  
**(Revised October 21, 2020)**

- 6.4.01 Employees shall not participate in bidding on El Paso County surplus equipment and auction items. 4
- 6.4.02 Intentional, reckless, or grossly negligent damage of County or Sheriff's Office equipment or property may be grounds for disciplinary action up to and including dismissal.

**SECTION 5. OFFICE DONATIONS**

- 6.5.01 No employee shall be obligated to financially contribute or donate for any purpose.

**SECTION 6. OUTSIDE EMPLOYMENT (Revised October 21, 2020)**

- 6.6.01 It is the policy of the Sheriff's Office that employees recognize their primary duties are to the Sheriff's Office and El Paso County. Employees are subject to be called to perform work duties at any time for emergencies, special assignments, overtime and the like, and the obligations of outside employment are always subordinate. An employee who seeks to engage in employment outside of his/her duties with the Sheriff's Office must receive the approval of the Sheriff prior to engaging in the outside employment. The employee must furnish to the Sheriff a detailed written description of the outside employment. Approval shall be given by the Sheriff, provided that such employment is not conducted during the hours the employee is scheduled to work for the Sheriff's Office; that such employment does not conflict with the employee's duties with the Sheriff's Office or County; that such employment does not adversely affect the public image of the Sheriff's Office or the County; and that such employment does not adversely affect the employee's availability and usefulness as an employee of the Sheriff's Office. Additional standards and requirements may be established by the Sheriff.

**SECTION 7. PERSONAL DATA CHANGES (Revised October 21, 2020)**

- 6.7.01 The employee's address, telephone number (both home and mobile if applicable), and personal email address shall be the official address and telephone number for use by El Paso County and the employee. Changes to an employees' personal data must be reported (or electronically updated) to the Human Resources Department and his/her supervisor within 30 days of such change.

**SECTION 8. ANTI-HARASSMENT (Revised January 21, 2020)**

- 6.8.01 The El Paso County Sheriff's Office is committed to maintaining working environments free from harassment and discrimination. In accordance with this commitment, discrimination or harassment of an individual based on any of the following is prohibited:
- (1) Race,
  - (2) Color,
  - (3) Religion,
  - (4) Sex,
  - (5) National origin,
  - (6) Age,
  - (7) Disability,
  - (8) Ancestry,
  - (9) Marital status,
  - (10) Pregnancy,
  - (11) Sexual orientation

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4 Please refer to the County's Purchasing Policies for additional information.

- (12) Gender identity/expression,
- (13) Veteran status,
- (14) Genetic information, or
- (15) Any other legally protected characteristic.

6.8.02 The Sheriff's Office will not tolerate discrimination or harassment of any kind. Retaliation against any individual who has reported harassment or discrimination will also not be tolerated and will result in disciplinary action.

6.8.03 All employees, supervisors, department heads, elected officials, and individuals visiting or doing business with the Sheriff's Office are subject to this policy.

6.8.04 Definitions

Discrimination: Making employment decisions based on any of the protected characteristics listed in 6.8.01.

Harassment: Behavior that is severe or pervasive and interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment and which is based on any of the protected characteristics listed in 6.8.01.

(1) Examples of Harassment include, but are not limited to:

- a. Unwanted physical contact;
- b. Use of inappropriate jokes, comments, innuendos, pictures, or posters; and
- c. Obscene or harassing telephone calls, e-mails, letters, notes or other forms of communication.

Sexual Harassment: Verbal or physical conduct of a sexual nature when:

- (1) Submission to such conduct is made implicitly or explicitly a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions; or
- (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive working environment.
- (4) Examples of Sexual Harassment include, but are not limited to:
  - a. Unwelcome sexual advances;
  - b. Demands/threats for sexual favors or actions;
  - c. Posting, distributing, or displaying sexual pictures or objects;
  - d. Suggestive gestures, sounds or stares;
  - e. Unwelcome physical contact;
  - f. Sending/forwarding inappropriate e-mails of a sexual or offensive nature;
  - g. Inappropriate jokes, comments, or innuendos of sexual nature;
  - h. Obscene or harassing telephone calls, e-mails, letters, notes or other forms of communication; and
  - i. Pornographic, sexually explicit, or otherwise obscene material in the workplace.

Retaliation: To harass or take employment action against an employee or applicant because they filed a charge of discrimination or harassment, complained about discrimination or harassment on the job, or participated in an employment discrimination or harassment proceeding (such as an investigation or lawsuit).

- (1) Examples of Retaliation include, but are not limited to:
  - a. Hiring, firing, layoffs;
  - b. Demotion;
  - c. Denying promotion;
  - d. Reducing pay;
  - e. Altering job assignments without a reasonable basis;
  - f. Denying training opportunities; and
  - g. Denying or reducing fringe benefits.

6.8.05

#### Procedure

The Sheriff's Office is committed to enforcing this policy. Individuals found to have committed harassment will be subject to the full range of sanctions, up to and including termination of their employment. Intentionally making a false accusation of harassment is also prohibited.

Retaliation against an individual, who complains in good faith of discrimination or harassment, or for cooperating in the investigation of said complaint in good faith under this policy, is strictly prohibited. If an employee has been retaliated against, the employee is encouraged to report the retaliation immediately to Human Resources or the Sheriff's Office Internal Affairs Unit. Those found to have engaged in retaliation will be disciplined accordingly.

#### A. Employee Responsibilities:

- (1) All employees are expected to conduct themselves in a manner consistent with this policy. County employees are responsible for promoting respect in the workplace, for being familiar with this policy, and for refraining from conduct that violates this policy.
- (2) Employees who believe they have been subject to or have witnessed discrimination/harassment shall report, as soon as possible, their concerns to one of the following:
  - a. The employee's immediate supervisor;
  - b. The next level of supervision above their immediate supervisor if:
    - i. The employee believes their supervisor is party to the harassing behavior;
    - ii. The employee believes their supervisor is indifferent to obvious harassing behavior;
    - iii. The employee fears retaliation or reprisal from their supervisor for reporting harassing behavior.
  - c. The County's Chief Human Resources Officer or designee.
  - d. The Sheriff's Office Internal Affairs Unit.



- e. Nothing in this policy prohibits an employee from filing externally with the Texas Workforce Commission Opportunity Commission (EEOC) or the Civil Division of the Texas Workforce Commission (TWC). If the employee elects to report through this avenue directly, the employee is encouraged to provide notice to the Human Resources Department within 24 hours of filing said report or complaint to facilitate prompt action if necessary.
- (3) Employees shall cooperate with the Discrimination/Harassment Review Committee, Contracted Reviewing Third Party or the Sheriff's Office Internal Affairs Unit in the conduct of any investigation.

B. Supervisor Responsibilities:

- (1) All supervisors have a duty or obligation to conduct themselves in a professional manner and refrain from any behavior which may create discrimination or a hostile environment.
- (2) Supervisors are further obligated to report any reports of discrimination or harassment, or those which they witness themselves.
- (3) Any supervisor who receives a report of discrimination or harassment shall immediately notify the Sheriff's Office Internal Affairs Unit on a Personnel Incident Report (PIR) form.
- (4) The supervisor shall document any information as a result of the report, and must forward all information relating to the complaint to the Chief Human Resources Officer and the Sheriff's Office Internal Affairs Unit.
- (5) All complaints shall be handled with discretion and no person shall be penalized or subject to retaliation for filing a complaint of discrimination or harassment.
- (6) The Sheriff remains at all times responsible for maintaining a non-hostile workplace including protecting employees from harassment/discrimination by vendors, visitors, and members of the public.

B. Vendors, Visitors and Members of the Public Responsibilities:

- (1) Visitors, vendors and members of the public shall not be permitted by the Sheriff to discriminate against or harass Sheriff's Office employees.
- (2) Visitors, vendors and members of the public who are found to have violated this policy may be prohibited from further dealing with specific employees within the Sheriff's Office depending on the circumstances.
- (3) At a minimum, in cases involving vendors, notification to the company will be made addressing the harassing behavior.

6.8.06 Investigations by the Human Resources Department<sup>5</sup>

- A. Once a complaint has been received by the Human Resources Department, the County Chief Human Resources Officer, or designee, will determine if the complaint states a claim, that if found true, would be a violation under this policy.

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<sup>5</sup> All reference to days within this section shall be business days. County holidays will not be considered business days.

- (1) If the complainant does not state a claim that would be a violation under this policy, the Chief Human Resources Officer, or designee will notify the complainant of that determination and provide resolution as appropriate. Such notifications shall be sent within seven (7) days of the determination made by the Chief Human Resources Officer or designee.
- (2) If the complainant does state a claim that would be a violation under this policy the Chief Human Resources Officer, or designee, will notify the complainant of that determination with seven (7) days of the determination being made.
  - a. Thereafter, the Chief Human Resources Officer will launch an investigation of the complaint utilizing an external provider to investigate.
  - b. Investigations shall be launched by the external provider within seven (7) days of the determination made by the Chief Human Resources Officer.
  - c. Depending on the nature of the claim, alleged harasser(s) may be removed from the worksite or placed on administrative leave (ADC) pending the outcome of the investigation.
- (3) All determinations made by the Chief Human Resources Officer, or designee, will be reviewed with the County Attorney's Office prior to notices being sent.

B. External Contracted Investigations

- (1) Via the County Attorney's Office, the HR liaison shall refer the matter to the external provider.
- (2) Once it has been determined that no internal conflicts exist between the external provider and the parties involved in the assigned complaint, the external provider shall coordinate their investigation plan with the HR liaison prior to the commencement of the investigation.
- (3) Once the external provider and the HR liaison have determined the investigation plan, the HR liaison will schedule interview meetings with applicable parties. Interviews may be audio recorded to ensure accuracy of the interview.
- (4) The external provider will conduct in-person interviews at its location, or another discrete location to thoroughly investigate and gather all facts pertaining to the complainant's allegations.
- (5) At the conclusion of the investigation, the external provider will report the investigation outcome to the HR liaison via a final investigation report.
- (6) Once the final report is received by the HR liaison, HR will proceed to notify the parties of the conclusion of the employment investigation.
- (7) All investigation shall be completed in a prompt and thorough manner.

C. Internal HR Investigations

In the event the external provider is unable to assist within an investigation, the complaint shall be investigated internally by the designated HR liaison with the County's HR Department utilizing the same process as the External Contracted investigations found in Section 6.8.06 B of this policy.

D. Discipline

Any Sheriff's Office employee who is found, after appropriate investigation, to have engaged in discriminatory or harassing behavior prohibited by this policy will be subject to appropriate disciplinary action, up to and including termination.

6.8.07

Sheriff's Office Internal Affairs Unit Investigations

Once a complaint has been received by the Sheriff's Office Internal Affairs Unit, the Sheriff's Office Internal Affairs Unit, will conduct an investigation in accordance with Sheriff's Office policy and procedures.

6.8.08

Training

- A. Every non-supervisory employee must attend the County's Discrimination and Sexual Harassment Prevention Training for Employees" upon hire and every year thereafter during the course of their employment with the County. While non-supervisory employees have the option of completing the training online via the county's intranet, it is required that in-person trainings are completed at least every other training to ensure a thorough understanding.
- B. Every supervisor must attend the County's "Discrimination and Sexual Harassment Prevention Training for Supervisors" upon hire and every year thereafter during the course of their employment with the County. Supervisors do not have the option of completing the training online and must attend an in-person training each time the training is due.
- C. Schedules for both online and in-person trainings can be found within the County's intranet page found at <http://intranet/hr/training.htm>.
- D. Training records will be kept on file in the Human Resources Department.

## CHAPTER 7

### PERFORMANCE EVALUATION SYSTEM

#### SECTION 1. PERFORMANCE MANAGEMENT AND EVALUATIONS (Revised November 5, 2024)

##### 7.1.01 Performance Management

Performance management is the continuous process of managers and employees working together to plan, monitor, and review an employee's work objectives or goals and overall contribution to the organization. More than just an annual performance review, it is the continuous process of setting objectives, assessing progress and providing on-going coaching and feedback to ensure employees are meeting their objectives and career goals. The fundamental goal of performance management is to promote and improve employee effectiveness.

##### 7.1.02 Forms

- A. Evaluation and Quarterly coaching forms are located on the intranet within the HR section. Both forms shall be used for regular and probationary employees.
- B. The employee must sign the form acknowledging receipt of the evaluation. Signing the form does not indicate the employee agrees with the evaluation.
- C. Supervisors must sign all evaluations.
- D. Completed performance evaluations will be sent to and maintained by the HR Department in the employee's personnel file.

##### 7.1.03 Performance Management Procedure

###### A. Annual Evaluation

Each regular employee shall be given a written performance evaluation by the end of August 31st, or on the employee's anniversary date in the current position.

- (1) The due date of the evaluation is at the discretion of the Sheriff and must be the same for the entire Office.
- (2) The Sheriff, or his designees, are responsible for completing annual evaluations and submitting them to the HR Department in a timely manner but no later than September 5<sup>th</sup> of each year.
- (3) If an employee is due for an evaluation on his or her anniversary date as of result of a demotion, promotion, completion of the first year of employment or the Sheriff's election to complete evaluations on employee's anniversary dates, the evaluation is due five (5) days from the anniversary date.
- (4) Failure to submit timely evaluations may result in non-bargaining unit employees not receiving a step increase, if steps are approved by Commissioners Court for the related fiscal year. Additionally, no retroactive payments will be given for non-bargaining unit employees who do not receive a timely evaluation unless approved by Commissioners Court.

B. Probationary Evaluation

- (1) All newly hired employees shall be evaluated at the conclusion of their probationary period.
- (2) Probationary employees are not eligible for step increases until the completion of their first year anniversary.
- (3) All probationary evaluation forms shall be submitted to the HR Department within five (5) days from the date of the end of the employee's probationary period.
- (4) In the event an employee does not successfully complete the probationary period, the Sheriff should work with the HR Department and the County Attorney's Office to properly document employment separation.

C. Unscheduled Evaluation

Unscheduled evaluations are required in the following cases:

- (1) Prior to an employee being transferred to a new supervisor or unit.
- (2) Prior to an employee being placed on an extended leave status, to include military leave.

D. Coaching and Feedback Recommended

Supervisors are encouraged to communicate regularly with their employees. Providing ongoing feedback and coaching reports can assist with the annual evaluation. The purpose of performance coaching and feedback is to help managers improve the productivity of their employees, to develop and improve an employee's performance, and to correct poor performance.

- (1) Ideally, coaching should be completed at the end of each quarter: December 31, March 31, and June 30 of each year.
- (2) While coaching forms are available for use during these sessions, they are not required. Coaching forms are not submitted to HR; rather, they are kept at the supervisor level for future use when compiling the annual evaluation.

7.1.04

Below Standards Evaluations

- A. Performance which fails to meet the performance standards of the position being evaluated is unacceptable.
- B. Non-bargaining unit employees will not receive a step increase after receiving a "Below Standards" evaluation.
- C. Corrective action must be initiated anytime an employee receives an evaluation that is below standards, if action has not already been taken. Supervisors should work with the HR Department regarding any corrective action measures needed.

#### 7.1.05

##### Appeals

Performance evaluations are not disciplinary actions and cannot be grieved through the Civil Service Commission.

- A. Employees may submit supplemental documentation detailing their disagreement with their evaluation within seven (7) days of receipt of the evaluation. This documentation must be submitted to the Sheriff.
- B. The Sheriff shall respond to the employee by meeting with the employee to discuss the employee's disagreement within seven (7) days of receipt of the employee's supplemental documentation.
- C. The annual evaluation will be finalized once the Sheriff makes a decision on the appeal. The Sheriff's decision is final and may not be appealed.

#### 7.1.06

##### Training

Performance Management training will be held, as necessary, throughout the year for supervisors. For training information, visit the training calendar on the intranet located within the HR section.

## CHAPTER 8

### POLITICAL ACTIVITY

#### SECTION 1. GENERAL PROVISIONS

- 8.1.01 El Paso County employees are encouraged to vote for the person or party of their choice.
- 8.1.02 The Sheriff shall make no rule abridging the freedom of speech or prohibiting the free exercise thereof by any employee in his private capacity while off-duty.
- 8.1.03 El Paso County Sheriff's Office employees will not be allowed to perform or be involved in political campaigning or related activities while on duty, or while in uniform, or while using county equipment.
- 8.1.04 No employee shall be required to participate in political campaigns or related activities as a condition to obtain or retain employment or as a condition for advancement. No employee shall be solicited to contribute or make any donation to a Sheriff or opponent's campaign for election or reelection.
- Should the employee choose to participate in any political activity during their regular work-schedule, they must request vacation leave or leave without pay.
- 8.1.05 No employee shall be disciplined, terminated or deprived of their rights for refusal to participate in activities in political campaigns or related activities as a condition to obtain or retain employment.
- 8.1.06 Any employee who feels he has been disciplined, terminated or deprived of his rights because of actions specified in this chapter may utilize the grievance system.
- 8.1.07 If any employee actually becomes a candidate for any paid elected office, the employee shall be placed on a leave of absence without pay from the time an employee officially designates a campaign treasurer, or begins campaigning, whichever occurs first, and until the day after the election. For the purposes of this rule, "campaigning" is limited to officially filing for public office and/or publicly declaring his candidacy. Once the employee is placed on leave he has the option of utilizing annual leave, and personal holiday leave. The use of county equipment and time under this chapter is strictly prohibited.

## CHAPTER 9

### DISCIPLINE/DISCIPLINARY ACTION

#### SECTION 1. GENERAL PROVISIONS

- 9.1.01 As further set out in these rules and regulations, and orders and directives of the Office, any employee shall be subject to disciplinary penalties for any action that is determined to be harmful to the El Paso County Sheriff's Office. It is deemed to be in the best interest of the Office that no employee be subjected to disciplinary action without just cause. The Commission recognizes the rules of conduct, regulations, orders, directives, policies and procedures as set forth in the Policy and Procedure Manual of the El Paso County Sheriff's Office insofar as those provisions do not conflict with any established rules, procedures, policies or practices of the Civil Service Commission. The Commission will resolve any conflict between its rules and the Office's policy. Discipline is intended to be corrective in nature. Generally, it should be progressive and administered with the intent of assisting the employee to learn. Certain rule violations or degrees of transgression may require that a penalty be assessed without first resorting to progressive disciplinary action.
- 9.1.02 Except for disciplinary action taken during the probationary period, as set forth in Rule 2.4.06, suspensions, demotions or dismissals shall be subject to the provisions of this chapter.
- 9.1.03 Just cause for written reprimand, suspension, demotion or dismissal shall include but not be limited to the following:
- A. Absence Without Leave - Absence from duty which is not authorized or for which a request for leave has been denied.
  - B. Poor Attendance - Excessive absence and/or tardiness; sick leave abuse.
  - C. Insubordination - Disobedience of a lawful order.
  - D. Disrespect - Offensive in conduct, language or demeanor.
  - E. Dishonesty, perjury or knowingly submitting fictitious reports.
  - F. Fighting or otherwise disrupting harmonious relations between employees during normal duty hours or while in uniform.
  - G. Being under the influence or consumption of intoxicating beverages or controlled substances such as narcotics, non-prescribed prescription drugs, or possession of the same, while on the job or while in uniform.
  - H. Discrimination and/or Sexual Harassment.
  - I. Is consistently inefficient in the performance of the duties of his position so that his general average of efficiency is below the minimum standards established.
  - J. Physical or verbal abuse of a person in custody of the Office.
  - K. Violation of any penal or duty-related statute, Civil Service Commission rule, regulation or order, Office Policies and Procedures, or the County Code of Ethics.
  - L. Conduct or action that would seriously impair job effectiveness.



- M. Conduct or communication detrimental to, or has an adverse effect at, the work place.
- N. Failure to obtain or maintain the necessary legally required state license or certification to perform in their official capacity or position within the Sheriff's Office.
- O. Absent just cause, failure to obey a summons to appear before any court or the Civil Service Commission.
- P. Conviction, or deferred adjudication community supervision of any felony offense, class B or above misdemeanor, or any offense involving family violence.
- Q. Failure to satisfactorily complete, obtain or maintain the required physical or psychological certification or level of physical or psychological fitness for duty.

**SECTION 2. PROCEDURE FOR DISCIPLINARY ACTION (Revised January 20, 2021)**

- 9.2.01 Any act on the part of a Sheriff's Office employee found to be in violation of these rules shall be subject to disciplinary action by written reprimand, suspension, demotion, or dismissal.
- 9.2.02 Written Reprimand - To be used when an employee has committed a minor act or omission.
- 9.2.03 Suspension – To be used when an employee has committed a major act or omission, or a series of minor acts or omissions that could be subject to disciplinary action as provided in the disciplinary matrix. A suspension shall be set for a period of time ranging from one (1) day to any period of days as determined by the Sheriff depending on the type of offense.
- 9.2.04 Demotion - To be used when an employee has committed a major infraction or after repeating a prior disciplined infraction of a less severe nature.
- 9.2.05 Dismissal - To be used when an employee has committed a major infraction or after repeating a prior disciplined infraction of a less severe nature.
- 9.2.06
  - A. When an employee is arrested, charged or indicted for a felony, or a misdemeanor involving an act of violence or moral turpitude, the employee shall be placed on Administrative Leave without Pay pending the disposition of the criminal charge. The employee on such leave has the option of applying his accumulated vacation leave during this period.
  - B. If an employee is under investigation for suspected improprieties, (s)he may be placed on Administrative Leave pending the results of the investigation. If (s)he is placed on such leave, it shall be with pay for a period not to exceed ten (10) days (80 hours). Should the investigation take longer and with justifiable reasons given by the investigators, the employee shall be placed on Administrative Leave without Pay pending the results of the investigation. The employee on Administrative Leave without Pay has the option of applying accumulated vacation leave during this period. If the case is unfounded, exonerated or not sustained, all time lost by employee will be reimbursed.
- 9.2.07 An employee may, at the discretion of the Sheriff, forfeit vacation leave in lieu of suspension for a period not to exceed ten (10) days (80 hours). An election to forfeit vacation leave constitutes a waiver of the employee's right to appeal the disciplinary action.

- 9.2.08 Pre-disciplinary Action Notice and Response:  
Notice of disciplinary action shall be in writing and shall be delivered to the affected employee in person or by certified mail as herein provided. When the disciplinary action contemplated is to be a suspension of five (5) days or more, demotion, or termination, the affected employee must be served with a pre-disciplinary action notice to which the employee shall have the opportunity to respond in person or in writing. This written pre-action notice shall be designated *Notice of Proposed Disciplinary Action* and shall include the Civil Service and/or Official rules violated, the date, time and place that the employee violated the rules together with a specific description of the employee's act or omission which violated the rules, and the nature of the discipline being enforced. The Notice shall be personally served upon the employee or sent by Certified Mail to the address he has on file with the Office.
- 9.2.09 Upon receipt of the Notice, the employee has five (5) working days to respond to the allegations contained therein. This response may be in writing or may be made in person to the Sheriff or his designee. The employee is entitled to have representation to assist him in his response, provided, however, that in the event the representative is an Office employee, the representative shall not participate in this process on County time. If the employee elects to respond in person, a meeting shall be conducted as an exchange of information to better clarify the situation in order to determine whether the proposed action is warranted. Consequently the *Notice of Proposed Disciplinary Action* must be thoroughly explained and discussed with the employee to ensure that he understands the nature and background of the charges against him. Furthermore, the employee or representative must be allowed to present a response or rebuttal to the charges or an explanation of the employee's actions, or why the employee feels the proposed action is too severe. Although witnesses may not be summoned into the meeting, the employee may present supporting documentation or affidavits. In cases where the Office and employee reach a consensus and agreement relative to the proposed disciplinary action, no appeal may be taken to the Commission.
- 9.2.10 The employee shall be furnished, by personal service or certified mail, a written notice of discipline, signed by the Sheriff. Such notice shall comply with the requirements set forth in Section 9.2.09 and shall state the conditions and rights to appeal the disciplinary action, including applicable time limits. Except in cases of dismissal, the statement of disciplinary notice shall state that further violations on the part of the employee could result in more severe discipline up to and including dismissal.
- 9.2.11 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.
- 9.2.12 Disciplinary action for non-criminal activity may not be initiated against an employee for an infraction which occurred more than 180 days prior to the service of the *Notice of Proposed Disciplinary Action* upon the employee. In a disciplinary matter where the provisions of Section 9.2.08 are not implicated, disciplinary action may not be initiated for an infraction which occurred more than 180 days prior to the service of the written notice of discipline. This 180 day deadline does not apply if all the following criteria are met:
- (1) The disciplinary offense is listed in the Sheriff's Disciplinary Matrix;
  - (2) The preponderance of the evidence shows neither the Sheriff nor the complainant knew, or reasonably should have known, of the violation in time to issue a Personal Incident Report within the 180 day period; and
  - (3) The Personal Incident Report is issued within thirty (30) days after the infraction is discovered by the Sheriff or complainant.
- 9.2.13 An employee will not receive more than one disciplinary action for the same violation.

## 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.
    - (1) 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 Human Resources Department by the 10<sup>th</sup> day before the hearing is held. (Revised 1.26.16)
    - (2) 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.
    - (3) 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.

## CHAPTER 11

### PROMOTIONAL PROCEDURES

#### SECTION 1. POLICY STATEMENT

- 11.1.01 It is the policy of the El Paso County Sheriff's Office to provide fair and equal promotional opportunities to all eligible employees.
- 11.1.02 The Sheriff's Office will implement and maintain a two tier promotional system for commissioned positions. The promotion structure for detention officers consists of the ranks of Floor Control Officer, Sergeant and Lieutenant. The promotion structure for peace officers includes the ranks of Detective, Sergeant and Lieutenant.
- 11.1.03 Separate qualifications will be established for detention and peace officer positions. The promotion procedures will apply to all personnel in the El Paso County Sheriff's Office.

#### SECTION 2. PROMOTION OF LICENSED PEACE OFFICERS AND JAILERS (Revised August 13, 2019)

- 11.2.01 Promotions of licensed peace officers and jailers shall be made in accordance with the promotional article in the "Articles of Agreement between the Sheriff of El Paso County, and the El Paso County Sheriff's Officer's Association, Inc." (herein referred to as "The Agreement.") Only licensed peace officers are eligible for the ranks listed in the Agreement under Law Enforcement, and only licensed jailers are eligible for the ranks listed in the Agreement under Detention.

#### SECTION 3. SELECTION TO DEPUTY SHERIFF (Revised August 13, 2019)

- 11.3.01 The Human Resources Department will post the announcement of a Basic Peace Officer Course and the list of eligibility requirements.
- 11.3.02 Eligibility requirements are:
- (1) Be employed as a permanent detention officer with the El Paso County Sheriff's Office with at least 12 months of continuous service in that capacity.
  - (2) Pass the physical fitness assessment administered by the Region VIII Training Academy.
  - (3) Pass a written exam.
  - (4) Pass an updated background investigation, which may include a polygraph exam.
  - (5) Pass an oral interview.
  - (6) Pass the medical evaluation.
  - (7) Pass the psychological evaluation.
  - (8) Meet TCOLE requirements.
  - (9) Have annual performance evaluations for the previous two years.

- 11.3.03 The Human Resources Department will create an eligibility list with the names of the detention officers who have met all the eligibility requirements in 11.3.02. The order of the eligibility list will be determined by the written exam score (from highest to lowest passing score). The Sheriff will determine the size of the class for the Basic Peace Officer Course. The participants will be selected by the Sheriff from the eligibility list. The Sheriff may deviate from the order of the list to take into account the following factors:
- (1) Past performance history of the eligible detention officers, to include the detention officers' internal affairs disciplinary history. The Sheriff may skip detention officers on the list who have had performance or disciplinary problems.
  - (2) The diversity needs of the agency. The Sheriff may select detention officers lower on the list to fill up to 30% of the slots for the Course with qualified detention officers who help meet the diversity needs of the agency.
- 11.3.04 Detention Officers selected to become probationary deputies must successfully complete the Basic Peace Officer Course, State Licensing Exam and the patrol division's Field Training Officer Program. Any probationary deputy who does not successfully complete all of these prerequisites may be reassigned to his/her former employment status.
- 11.3.05 Detention Officers who met all the requirements listed in 11.3.02, but were not selected to attend the Basic Peace Officer Course must reapply for any subsequent Basic Peace Officer Course. There will not be a standing list.
- 11.3.06 Detention Officers who have previously attended a Basic Peace Officer Course but failed to successfully complete the Course, State Licensing Exam or the patrol division's Field Training Officer Program, must wait 6 months from the last day of attendance at the academy or the last date as a probationary deputy (whichever is later) to reapply.
- 11.3.07 The Sheriff may hire as a deputy a peace officer licensed by TCOLE. The number of peace officers from other agencies appointed as a deputy may not exceed 1 of 6 first time deputy appointments per calendar year. Deputies appointed under this subsection must:
- (1) Pass the physical fitness assessment administered by the Region VIII Training Academy.
  - (2) Pass a background investigation, to include a polygraph exam.
  - (3) Pass the medical evaluation.
  - (4) Pass the psychological evaluation.
  - (5) Have a TCOLE peace officer license and meet TCOLE requirements.
  - (6) Attend and pass those portions of the Basic Peace Officer Course designated by the Sheriff.

**SECTION 4. PROMOTION OF NON-UNIFORMED PERSONNEL (Revised April 20, 2022)**

- 11.4.01 Promotions  
A promotion is the advancement of an employee to a job in a higher job classification.
- A. When a vacancy is created in the Sheriff's Office, a vacancy requisition shall be submitted to the Human Resources Department.
  - B. It is an employee's responsibility to inform himself or herself of position vacancies, including opportunities for promotion within the Sheriff's Office. Failure of the employee to learn of a position vacancy shall not be the basis of a grievance.
  - C. Employees promoted to a higher grade will start at the entry level of the grade or the first step of the grade that provides a minimum of a 3.78% increase from the employee's previous hourly base pay rate, whichever rate is higher. The seniority date will change to reflect the promotion date.
  - D. The employee may be placed at a step higher than entry level in the new pay grade, but no higher than a step 2 at the discretion of the Sheriff and as verified with the Human Resources Department. Any requests for higher step placement that exceed the limits in this subsection or subsection 11.4.01(C) shall be made directly to Commissioners Court.
- 11.4.02 Any employee who is promoted shall give his supervisor/division head two weeks prior notice before accepting a promotion to another division/county department unless a mutual agreement of lesser or greater notice is made between the division heads or the Sheriff and another Elected Official/Department Head.
- 11.4.03 An employee who is promoted shall be placed on a six (6) month probationary period beginning from his/her effective date of promotion. During the probationary period an employee must satisfactorily demonstrate his/her ability to perform the duties required for the new position.
- 11.4.04 An employee promoted to a higher level position who fails to satisfactorily perform those duties and responsibilities required of the higher level position within a period of six (6) months from the date of promotion, may be demoted to his former position or a similarly rated position for which he would qualify if there is a vacant position available within the Office.
- 11.4.05 If the Sheriff determines that demotion is the appropriate placement but no position is available within the Sheriff's Office, the promoted employee will be separated from employment but will have the first right of refusal for a period of six (6) months from the date of the separation for any covered position available in Sheriff's Office for which the employee is qualified. It is the employee's obligation to inquire with the Human Resources Department as to which vacancies exist and to apply for said vacancies. The Human Resources Department will make available, to the affected employee, a list of all vacant positions upon request.
- 11.4.06 Employees demoted or separated from employment under this section for failure to satisfactorily perform during the probationary period may not appeal the demotion or separation to the Civil Service Commission.
- 11.4.07 Temporary Promotion or Assignments  
Temporary Promotions or Assignments are when employees are temporarily promoted or assigned to an existing or newly approved position in a salary grade higher than their regular position. This is normally for the temporary filling of vacant positions or long term leave of an incumbent.



- A. Employees are eligible to receive a temporary increase in salary during the time they are performing the Temporary Promotion or Assignment duties. If all of the following criteria are met.
- (1) The employee is temporarily assigned or promoted to a higher graded position other than or in addition to their regular position;
  - (2) The employee is performing the principal duties and assumes the responsibilities of the higher position.
  - (3) The temporary assignment is expected to extend or does extend for 30 calendar days or more; and
  - (4) The department works with the Budget & Fiscal Policy Department and identifies funding for the temporary increase in pay.
- B. Compensation for temporary promotions or assignments will be in accordance with subsection 11.4.01(C).  
The request must be submitted by the Supervisor through the chain of command to the Human Resources Department as soon as possible, but no later than 90 calendar days from the start of the temporary assignment. The request for temporary increase in pay must be approved by the Human Resources Department. Upon approval, compensation will begin the first day of the assignment if the assignment begins on the first day of the pay period. If the assignment begins after the first day of the pay period, compensation will begin the first full pay period following assignment to the higher grade position.
- C. The temporary promotion or assignment is at the discretion of the Sheriff and the temporary pay will be removed at the end of the assignment. Upon return to the original position, the employee will receive any and all pay changes for the position as if the employee had never left the original position.
- D. This policy does not apply to assigned tasks that qualify as “other duties as assigned” or for lower graded positions.
- E. If an employee separates from employment, either voluntarily or involuntarily, or as the result of a retirement, while temporarily assigned to a higher classification, any accrual payouts made in conjunction with the separation or retirement shall be calculated and paid without the additional rate of the temporary pay.

## CHAPTER 12

### DEFINITIONS

Absence Without Leave - An absence from duty which is not authorized.

Appeal/Grievance - A complaint in writing, filed with the Commission in the manner and within the time provided by these rules seeking redress.

Commission - The Sheriff's Office Civil Service Commission as defined by *Subchapter B, Section 158.031 Local Government Code*.

Commissioner - A member of the Sheriff's Office Civil Service Commission as defined by *Subchapter B, Section 158.034, Local Government Code*.

Compensation - Salary and other forms of valuable consideration earned by or paid to an employee.

Competitive Examination - An examination in which the candidates are in competition and from which the eligibility list is created.

Days - In the calculation of prescribed time limits, calendar days will be used unless otherwise specified.

Disciplinary Action - An adverse action, including dismissal, suspension, demotion, or reprimand of an employee.

Eligible - Designates the status of a person whose name has been placed on an employment, re-employment, transfer or promotional list for a given class as a result of test, if required.

Good Cause - Good cause may include newly discovered evidence which was not readily available at the time of the hearing despite reasonable efforts having been made to obtain the evidence, inability to have witness(es) appear despite reasonable efforts having been made to secure the attendance of the witness(es), unexpected illness or injury to any party or witness, or when the Commission's decision is contrary to law.

Immediate Household - Parents, spouse, children, grandparents, grandchildren, brother, sister, stepparents, stepchildren, parents-in-law and domestic partners who live with the employee in a familial context.

Leave Year - The period beginning with the first day of employment and ending with the day preceding the anniversary date of employment.

Medical Certificate - A written statement signed by a physician licensed in the United States.

Performance Appraisal - The means by which the employee is appraised of his job performance by the immediate supervisor.

Promotion - The advancement of an employee from a lower position to a higher position, usually accompanied by an increase in salary.

Regular Employee - An individual hired by the Sheriff's Office who is assigned a work schedule of forty (40) hours per week, less authorized leave with pay. This employee has satisfactorily completed the required period of probation.

Suspension - The period of time during which an employee, through appropriate disciplinary action, is forbidden to work.

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

Uniformed Officer - An individual who works in the Sheriff's Office and who holds a position of employment which requires a State Commission as a licensed Peace and/or Detention Officer.

Working Day(s) - Monday through Friday during the hours of 8:00am to 5:00pm (exclusive of recognized holidays for the employee).