

EL PASO COUNTY SHERIFF'S OFFICE
CIVIL SERVICE COMMISSION
RULES AND REGULATIONS

ADOPTED BY
EL PASO COUNTY SHERIFF'S OFFICE
CIVIL SERVICE COMMISSION

August 13, 2019 (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 March 1, 2017)

- 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 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 August 13, 2019)

- 2.4.01 The following four classification of employees are for payroll as well as for Civil Service purposes:
- A. **Regular Employee:** An individual hired by the Office on a continuing basis.
 - B. **Temporary Employee:** An employee appointed to a position with a limitation that the appointment will not exceed a six (6) month duration. No individual will receive more than two (2) temporary appointments within a twelve (12) month period. Appointments to a temporary position will not give the individual Civil Service status. Temporary employees are not eligible for paid leave, e.g., vacation, sick leave, insurance or retirement benefits.
 - C. **Full-Time Employee:** An employee who has a regularly assigned work schedule of 30 hours per week or more, less authorized leave with pay.
 - D. **Part-Time Employee:** An employee who has a regularly assigned work schedule of less than 30 hours per week.
- 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 An employee promoted to a higher level position who fails to satisfactorily perform those duties and responsibilities required of the job during the probationary period may be demoted to his former position or a similarly rated position for which he would qualify.
- 2.4.04 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
- 2.4.05 **INACTIVE EMPLOYEE:**
- An inactive employee is an employee who is on approved leave of absence without pay. An inactive employee does not earn or accrue vacation, sick leave or retirement/health benefits.
- 2.4.06 **EMPLOYMENT PROBATIONARY PERIOD:**
- A. For the period of time listed below in D following an employee's Effective Date of Employment, or successful completion of any required academy program of training, whichever is later, an employee will be considered a probationary employee.
 - (1) All employees failing to successfully complete their probationary period will be terminated without right of appeal.

- (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 former class and grade.
- 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) Communications Employees – One Year
 - (3) Collective Bargaining Employees – One Year

2.4.07 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.

2.4.08 JOB CLASSIFICATION

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

2.4.09 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 August 13, 2019)

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

SECTION 6. RESERVED FOR EXPANSION

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. DEMOTION (Revised March 14, 2018)

- 2.9.01 A demotion is a reduction of an employee from a higher pay grade to a lower pay grade or lower step within grade.
- 2.9.02 A disciplinary demotion is a demotion which is the result of: 1) the inability of the employee to fulfill the functions of the job; or 2) misconduct. The Sheriff has the authority to demote employees for just cause and to determine the new pay grade and step. 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.
- 2.9.03 A voluntary demotion is a reduction in pay grade requested by the employee. If the employee is placed in a new position at a lower pay grade at the employee's request, the employee will be placed in the step authorized based on the employee's total years of service with the County in the reduced pay grade and the higher pay grade combined, as verified by the Human Resources Department.

SECTION 10. REDUCTION-IN-FORCE

- 2.10.01 Retention of employees will be based on length of service.
- 2.10.02 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.

- 2.10.03 Changes in position authorization required in a reduction-in-force will be determined by 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.
- 2.10.04 Whenever possible, employees occupying positions to be deleted, due to a reduction-in-force in one County department/section, shall be referred for reassignment to other position openings for which they are qualified in the same or other sections/departments by coordinating this action with the County Human Resource Department and the County Sheriff's Office.
- 2.10.05 Length of service of an employee for inclusion in layoff ratings shall be based upon the number of calendar months of continuous County service. Periods of unapproved absence or leave without pay shall not be credited as County service. Length of service in the class for which the layoff is computed shall include service in any other class deemed by the appointing authority, subject to the approval of the Civil Service Commission, to be equal to, or greater than the employee's current classification. Any employee laid off shall, after timely reinstatement, regain the seniority credit he/she possessed at the time of layoff.
- 2.10.06 An employee shall, in lieu of layoff, be afforded the option of a demotion within the Office to the next lower grade or class for which they qualify. Persons in the lower grade or class so demoted by this change will follow down the manning table to the lowest level required. The salary of an employee being reduced in class due to a reduction-in-force, will be determined by the Sheriff, but shall not be greater than their current salary nor greater than the maximum of the prescribed pay range for their new position.
- 2.10.07 If any employee should be laid off as the result of a reduction in force, and if within a period of two (2) years thereafter, a vacancy should occur in the Office and in the same or lower grade, the said employee shall be reinstated in the vacant position, provided such employee meets all qualifications for said position.
- 2.10.08 All employees being reinstated as a result of a reduction-in-force will be entitled to restoration of benefits and their salary level at time of separation.
- 2.10.09 When more than one laid off person qualifies for reinstatement under these rules, the preference shall be given to the person laid off last.

SECTION 11: RE-EMPLOYMENT (Revised October 2, 2018)

- 2.11.01 Former employees who separated from service in good standing shall be eligible for re-employment within the County.
- A. 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 reinstated to the grade and step upon which they previously separated, if a vacancy is available, upon recommendation of the Sheriff.
- (1) Reinstated employees shall be placed at the same accrual rates for sick leave and vacation leave, if the following conditions are met:
- a. The employee left of his own accord through voluntary resignation; and
- b. The employee's break in service was no longer than six (6) months.
- B. Candidates for re-employment are subject to the same employment procedures as any other applicant pursuing employment with the County and shall refer to alternate County policies.

- C. A former County employee may not be re-employed or reinstated if he/she was dismissed or resigned in lieu of dismissal. Breaks in service due to dismissal are to be handled on case by case basis depending on the circumstance of the discharge and its final resolution.

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 January 23, 2019)

- 2.14.01 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.
- 2.14.02 For all other employees, the establishment, scheduling of work hours, overtime and related working conditions shall be determined by the Sheriff.
- 2.14.03 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.
- 2.14.04 The Sheriff's Office must be sufficiently staffed at all times during regular office hours.
- 2.14.05 Flexible schedules must comply with public sector accountability rules requiring employees be paid only for time worked or accrued leave taken.
- 2.14.06 Any use of a flexible schedule and/or flexing working hours must be approved in advance by the Sheriff.
- 2.14.07 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.
- 2.14.08 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.
- 2.14.09 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.

- 2.14.10 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.
- 2.14.11 An employee will not be permitted to work a compressed workweek during any week that contains a County observed holiday.
- 2.14.12 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.
- 2.14.13 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).
- 2.14.14 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. RESERVED FOR EXPANSION (Revised October 2, 2018)

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 January 24, 2017)

- 3.2.01 This policy does not apply to employees covered by a collective bargaining agreement.
- 3.2.02 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 regular full-time or part-time non-exempt employees.
- 3.2.04 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 to SDA, and shall be verified and approved by the immediate supervisor.
- 3.2.05 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 SDB, and shall be verified and approved by the immediate supervisor.

- 3.2.06 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 7:00 a.m., the employee would code their time 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.
- 3.2.07 All differentials paid to employees will be included in the employee’s regular rate for purposes of compensatory time accrual calculation.
- 3.2.08 Exclusions:
- A. Exempt employees and Temporary 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 their 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 hours¹; 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.

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

I. Repayments Crossing Tax Years:²

- (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.

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.
 - (3) 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.

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.

3.3.08

Annual Authorization

Each year, the HR Department shall request authorization by Commissioners Court to allow for repayments to be made via payroll deduction.³

³ In accordance with the Local Government Code

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 2, 2018)

- 5.2.01 All full time, regular non-elected employees are eligible to use accrued sick leave with pay when the employee is unable to perform his duties because of illness, injury, or other temporary disability.
- 5.2.02 Sick leave is accumulated from the date of employment for all full time regular non-elected employees at the rate of 3.077 hours per pay period. Maximum accumulation is ninety (90) days.
- 5.2.03 The use of paid sick leave is authorized only for an employee who has completed three (3) months of full-time service.
- 5.2.04 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.
- 5.2.05 Use of accumulated paid sick leave shall be authorized should a member of the immediate family be ill or injured.
- 5.2.06 Payment for accumulated sick leave is not authorized after notice of separation except for employee's covered by the Agreement between El Paso County and the El Paso County Sheriff's Officers Association.
- 5.2.07 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.

5.2.08 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.⁴

5.2.09 Accrual Rates

The Sheriff may choose to link non-protected⁵ 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 24 hours
Meets Standards rating:	24.01 to 40 hours
Below Standards rating:	40.01 + hours

⁴ See the Sick Leave Pool policy for further details.

⁵ Protected sick leave refers to that which is protected by FMLA, ADA, Workers Compensation or any other legally protected time.

SECTION 3. VACATION LEAVE (Revised October 2, 2018)

5.3.01 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 Based on years of service to the County⁶, 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.

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 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.

5.3.04 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.

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

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

5.3.06 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.

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

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 March 14, 2018)

- 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 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.
- 5.8.03 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.
- 5.8.04 In special cases, an 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, may be compensated for such work at the standard overtime rate in lieu of equivalent time off.
- 5.8.05 Employees on Workers' Compensation or Leave without Pay for any reason will not be paid for a holiday.
- 5.8.06 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 County employment, and the employee is leaving on voluntary terms, 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.
 - F. 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

- 5.10.01 Subject to the provisions contained in the following, an employee, as a result of an injury sustained in the course of his employment with El Paso County, shall be paid according to the policies of El Paso County.
- 5.10.02 Prior to reinstatement the employee must submit a letter from the attending physicians that states the employee is physically able to return to work without restriction.
- 5.10.03 A probationary employee off work due to a work related injury shall have the probation period extended for such period of absence from work.
- 5.10.04 After an employee injured on the job reaches Maximum Medical Improvement (MMI), the employee has 90 days thereafter to return to full duty with or without any reasonable accommodations to perform the essential functions of the position in which they were hired. If the employee is unable to return under these circumstances and the entitlements under FMLA have been exhausted, the employee's employment shall be terminated.
- 5.10.05 In cases where the former employee was employed as a licensed Peace Officer or Detention Officer, the former employee will be entitled to salary payments in accordance with Article 3, Section 52e of the Constitution of the State of Texas and Article 16, Section 1 of the Articles of Agreement between the County of El Paso and the El Paso Sheriff's Officers Association. Salary shall be the base salary the former employee received when the former employee's employment was terminated. 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.

SECTION 11. SICK LEAVE POOL (Revised April 24, 2019)

- 5.11.01 The Commissioners Court has established a program to allow employees to voluntarily contribute on an annual basis, sick leave time earned by the employee to a County-wide sick leave pool (the "Sick Leave Pool" or "SLP") that the employee is then eligible to use if, because of a catastrophic injury or illness, the employee has exhausted all the accrued paid leave and compensatory time to which the employee is otherwise entitled. Commissioners Court has appointed the County Chief Human Resources Officer as the Pool Administrator ("Administrator").

5.11.02 Catastrophic Injury or Illness

A catastrophic illness and/or injury is defined as a condition or combination of conditions affecting the mental or physical health of the employee or immediate family member that has been under prolonged treatment of a licensed practitioner for at least thirty (30) days which is likely to result in a loss of more than ten (10) consecutive work days for the employee. Leave taken on an intermittent basis which does not require the employee to be absent from work for a period of at least 10 days does not qualify. The physician certification must be included in the employee's request for use of time from the SLP.

5.11.03 Eligibility and Contribution to the SLP

- A. "Employee" means a 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.
- B. In order to be able to use the SLP, eligible employees must meet all three of the following criteria:
 - (1) Contribute to the SLP each year during the annual leave contribution period as designated (generally December) on the designated form, for new employees, within thirty one (31) days of the date they complete twelve (12) months of continuous service; or within thirty one (31) days after the adoption of this policy.
 - (2) Contribute at least one (1) day (8 hours), but no more than five (5) days (40 hours), of accrued sick leave time earned by the employee. An employee who is terminated, resigns, or retires may donate not more than ten (10) days (80 hours) of accrued sick time to take effect immediately before the effective date of the termination, resignation, or retirement.
 - (3) Employees who contribute sick leave must have a remaining balance of at least five (5) days (40 hours) of sick leave in their account immediately after making the donation. The Administrator shall credit the SLP with the amount of time contributed by the employee and shall permanently deduct the same amount of sick leave time from the employee, as if the employee had used the sick leave time for personal purposes. Employee contribution of sick leave to the SLP is final.

5.11.04 Requesting Time from the SLP

- A. An employee who has contributed to the SLP must apply to the Administrator on the designated form for permission to use time in the County SLP. Employees not enrolled in the SLP are not eligible to receive sick leave time from the SLP.
- B. If an employee is physically unable to complete the designated form for sick leave from the SLP, his/her the Supervisor may submit the form on the employee's behalf.
- C. The employee 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.
- D. The SLP may be used only by employees for his/her personal illness or disability or for a family member whose illness or injury meets the guidelines of the SLP.

- E. All hours used will count towards the employee's FMLA entitlement. The amount of leave donations and the amount of leave accrued cannot exceed the amount of time allowed under the FMLA.
- F. If the Administrator determines that the employee's request meets the requirements, the Administrator shall approve the transfer of sick leave from the SLP and credit the time to the employee as needed.
- G. The employee may use the time in the same manner as sick leave earned by the employee in the course of employment.
- H. An employee absent on sick leave transferred from the SLP is treated for all purposes as if the employee were absent on earned sick leave.
- I. An employee requesting time from the SLP 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.

5.11.05 Exclusions

- A. Elective surgery does not qualify as a catastrophic illness or injury. If complications arise resulting in a serious health condition, the situation may qualify as a catastrophic illness or injury.
- B. SLP time is not available for time off due to a job-incurred injury covered by Workers' Compensation benefits.
- C. Pregnancy in and of itself, is not a catastrophic illness or injury.

5.11.06 Maximum Leave

The Pool Administrator shall determine the exact amount of time that an employee may be allocated from the SLP. The amounts allocated may be given in increments as determined by the Pool Administrator, but in total cannot exceed the lesser of the following in a plan year.

- A. Sixty (60) days (480 hours) of time, or
- B. 1/3 of the total amount of time available in the SLP at the time of the request.

5.11.07 Confidentiality

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

5.11.08 Compliance with Other Policies

All SLP usage, including returns to work, shall be in compliance with County policy and procedures. Any change to the Sick Leave Pool Program by the Commissioners Court shall be applicable to these rules as of the effective date of the Commissioners Court action.

5.11.09 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. EMPLOYEE APPEARANCE AND CONDUCT

- 6.1.01 Each employee's personal appearance and conduct represents the Office to the public and to other County employees. It is important that each employee make the best impression at all times by setting high standards in appearance and conduct.
- 6.1.02 Professional employee telephone courtesy is a necessity at all times. If an employee does not know the answer to a question, the employee should try to find the answer or direct the party to the proper authority.

SECTION 2. GIFTS

- 6.2.01 Gifts are subject to the provisions of the Office's policies and the County Code of Ethics.

SECTION 3. RESERVED FOR EXPANSION

SECTION 4. USE AND CARE OF COUNTY OWNED PROPERTY

- 6.4.01 Reasonable care shall be exercised in using El Paso County property to minimize damage to equipment and waste of supplies.
- 6.4.02 Intentional, reckless, or grossly negligent damage of County equipment or property will be grounds for disciplinary action.

SECTION 5. OFFICE DONATIONS

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

SECTION 6. OUTSIDE EMPLOYMENT

- 6.6.01 It is the policy of El Paso County that employees recognize their primary duties are to El Paso County. Employees are subject to call at any time for emergencies, special assignments, overtime and the like, and the obligations of outside or extra duty employment are always subordinate. A county employee who seeks to engage in employment outside of his duties with El Paso County must receive the approval of the Sheriff prior to engaging in the outside or extra duty employment. The employee must furnish to the Sheriff a detailed written description of the outside or extra duty 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 county; that such employment does not conflict with the employee's duties with the County; that such employment does not adversely affect the public image of the County; and that such employment does not adversely affect the employee's availability and usefulness as an employee of the County.

The maximum hours an employee may perform outside or extra duty employment is 24 hours/week.
- 6.6.02 All employees requesting or engaging in outside or extra duty employment must comply with the Office's policies.
- 6.6.03 **Extra duty employment** is defined as secondary employment where the actual or potential use of law enforcement powers is anticipated.

SECTION 7. CHANGES IN EMPLOYEE PERSONAL DATA

- 6.7.01 If an employee changes his/her address, or telephone number he shall promptly notify his immediate supervisor, who shall in turn forward the information to Human Resource using the prescribed form.
- 6.7.02 If an employee's marital or dependent status changes, the employee shall contact the Payroll Section of the County Auditor's Office or Human Resources and/or Payroll Office to receive forms necessary to make appropriate changes.
- 6.7.03 If an employee changes his/her name, the employee must secure a new Social Security card bearing the changed name and must submit copy of social security card to Human Resources.

CHAPTER 7

PERFORMANCE EVALUATION SYSTEM

SECTION 1. PERFORMANCE MANAGEMENT AND EVALUATIONS (Revised April 24, 2019)

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 each fiscal year, September 30th, 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 October 5th 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 recommended 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 March 1, 2017)

- 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 shall 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* or written reprimand upon the employee. In disciplinary matters, where the provisions of Section 9.2.08 are not implicated, disciplinary action shall not be initiated for an infraction which occurred more than 180 days prior to the service of the written notice of discipline.
- 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 10th 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 August 13, 2019)

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.

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.

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).