

# **WHATCOM COUNTY CIVIL SERVICE COMMISSION**

## **RULES & REGULATIONS**

**Adopted by Civil Service Commission May 12, 2011**

Civil Service Commissioners: Francine Kincaid, Kim Poster, Bob Scanlon

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# WHATCOM COUNTY CIVIL SERVICE RULES AND REGULATIONS

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**WHATCOM COUNTY CIVIL SERVICE COMMISSION  
RULES AND REGULATIONS**

**1. GENERAL PROVISIONS**

- 1.01 AUTHORITY AND APPLICATION.** These rules are promulgated pursuant to the authority granted by Chapter 41.14 RCW, Civil Service for Sheriff's Office. These rules are applicable to proceedings before the Civil Service Commission and should be read in conjunction with the specific provisions of Chapter 41.14 RCW.
- 1.02 SCOPE AND PURPOSE.** These rules govern the continuing administration of the Civil Service System of Whatcom County. The purpose of these rules is to assure that the Civil Service System in Whatcom County is administered in accordance with the Charter and Ordinances of Whatcom County and its collective bargaining agreements, and that all proceedings before the Commission are conducted in an orderly, fair, and timely manner.
- 1.03 PRESUMPTION OF VALIDITY.** The Civil Service System implemented by these rules shall substantially accomplish the purpose of Chapter 41.14 RCW. These rules are presumed to be valid and shall be upheld unless in direct conflict with Chapter 41.14 RCW.
- 1.04 SEVERABILITY.** If any provision of these rules or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these rules which can be given effect without the invalid provision or application, and to this end, any section or word is declared to be severable.

**2. ADMINISTRATION AND OPERATION**

- 2.01 COMMISSION—MEETINGS—QUORUM.** In the necessary conduct of its work, the Commission shall meet on the second Thursday of each month, at 10:30 A.M., in the Whatcom County Human Resources Conference Room, unless there is no pending business requiring Commission action. Notice of special meetings shall be provided as required by the Open Public Meetings Act 42.30 RCW, as amended. The Commission shall conduct hearings as required. Notice of hearings shall constitute a quorum. No action of the Commission shall be effective unless two members concur therein. All Commission meetings or hearings, regular or as required, shall be open and public; provided, however, that the Commission may meet in executive sessions as authorized by the Open Public Meetings Act (Chapter 42.30 RCW, as amended).
- 2.02 CHAIR—VICE CHAIR.** At the first regular meeting of every other year, the Commission shall elect one of its members as Chair and another member to serve as Vice Chair for the term of two years. Should a Chair and/or Vice Chair resign or be removed from the position prior to expiration of his/her term, the Commission, upon appointment of a new member, shall proceed to the election of a new Chair and/or Vice Chair. Commissioners shall not serve consecutive two-year terms as Chair or Vice Chair unless no other Commissioner is available.
- 2.03 RULES OF ORDER.** Robert's Rules of Order shall be final authority on all questions of procedure and parliamentary law not otherwise provided by these rules.

- 2.04 COMMISSIONERS—CHALLENGE.** Any challenge to a Commissioner sitting at a hearing shall be done by an interested party prior to the commencement of a hearing. The challenged Commissioner shall review and rule on the challenge prior to proceeding with the hearing. Upon a Commissioner's finding of cause for disqualification, the Commissioner shall take no part in the hearing.
- 2.05 COMMISSIONERS—CHALLENGE—NECESSITY.** If, as a result of disqualification, pursuant to Rule 2.04, there is no longer a lawfully constituted quorum available, then by reason of necessity, the disqualified Commissioner(s) shall return and proceed with the hearing.
- 2.06 OFFICE—HOURS.** The office and post office address of the Whatcom County Civil Service Commission is 311 Grand Avenue, Suite 107, Bellingham, WA 98225. The office is open during regular business hours, as posted on the Civil Service Commission website.
- 2.07 PUBLIC RECORDS.** Public records of the Commission are available per State law and County administrative policy. Requests shall be made through Whatcom County's Public Records Officer.
- 2.08 RECORD OF PROCEEDINGS.** The Commission shall keep a record of its proceedings. The record of the Commission shall not include a written verbatim report of the proceedings ordered. The Commission may retain a court reporter to record all or part of a proceeding. In addition, a party to a proceeding, at his/her own expense, may have a court reporter record all or part of a proceeding. On appeal or review, costs of transcription may be recovered by the Commission, or a prevailing party, at the discretion of the reviewing court or the Commission. Upon appeal or review, transcription and certification of a record or proceedings shall be arranged by Civil Service staff.
- 2.09 REPORTS—APPLICANTS, ELIGIBLES, EMPLOYEES.**
- A. Each applicant, eligible, and employee shall keep the Commission informed, by written notice to the Chief Examiner, of current address and telephone number, and shall report any change of name through marriage or otherwise.
  - B. Each eligible shall keep the Chief Examiner informed, in writing, regarding availability and any refusal to accept appointment or promotion and the reason therefore.
- 2.10 REPORTS - SHERIFF.** The Sheriff shall immediately report to the Chief Examiner and each member in such detail and on such forms as the Chief Examiner may prescribe:
- A. Every appointment, transfer, promotion, demotion, reduction, statement, suspension, leave of absence without pay, return to duty, assignment, change of assignment, change of title, change of compensation;
  - B. Every separation from the service with the reasons therefore;
  - C. Every refusal or failure to accept appointment by a person whose name has been certified.

**3. CHIEF EXAMINER**

**3.01 CHIEF EXAMINER—APPOINTMENT.** The Commission shall appoint a Chief Examiner who shall also serve as secretary to the Commission (hereafter "Chief Examiner").

**3.02 QUALIFICATIONS.** The Chief Examiner shall be appointed as a result of a competitive examination, which examination must be open to all properly qualified citizens of the County; provided that no appointee of the Commission shall be an employee of the Sheriff's Office.

**3.03 CHIEF EXAMINER—DISCIPLINE.** The Chief Examiner role may be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the classified service.

**3.04 CHIEF EXAMINER—AUTHORITY.** The Chief Examiner shall:

- A. Be the Executive Officer of the Commission and be responsible to the Commission;
- B. Report to the Commission from time to time as directed concerning the details of the Chief Examiner's work for the Commission;
- C. Assist in preparation of the budget for Civil Service staffing and operations, as directed by the Human Resources Manager;
- D. Maintain job descriptions for all positions in the classified service;
- E. Determine which examinations shall be conducted, the minimum qualifications of applicants, the subjects to be covered in each examination, methods of testing, and the relative weights to be given to the various parts of the examination; supervise the conduct of the examinations, appointing such experts, special examiners, and other persons deemed necessary; decide all questions relating to the eligibility of applicants, the admissibility of applicants to the examinations, extension of time and all questions arising during the course of an examination; prepare and submit a report prior to and after each examination to the Commission together with a report on all appeals from rulings or appeals from any part of the examination; and administer examinations as provided by rules of the Commission (see Rule 8. EXAMINATIONS);
- F. Perform all other functions necessary for the proper carrying out of these rules and the provisions of law relating to the Civil Service System, and such additional duties as may be assigned to the Chief Examiner from time to time by the Commission;
- G. Monitor other Human Resources staff members as necessary to cover Civil Service functions.

**3.05 REVIEW OF AND APPEAL FROM ACTIONS OR DECISIONS OF THE CHIEF EXAMINER.**

- A. The Commission on its own motion may review or modify any action or decision of the Chief Examiner.
- B. Any person adversely affected by any action or decision of the Chief Examiner may request the Commission to revise or modify such action or decision. Such request shall be in writing and set forth with reasonable certainty the action objected to, the grounds supporting the request, the relief sought, and must be made within ten (10)

days from the date of notice of such actions, unless established otherwise in these rules, The Commission shall thereupon, if in its opinion good cause is shown, conduct a hearing thereon.

4. **DEFINITIONS** The following words and phrases shall have the meanings hereinafter described unless the context in which they are included clearly indicates otherwise.
- 4.01 **ACTUAL SERVICE.** Time in which a given employee has been engaged under civil service appointment in the performance of the duty of a position or positions and shall include absences with pay.
- 4.02 **APPLICANT.** Anyone who has filed an application to take a civil service examination.
- 4.03 **APPOINTING AUTHORITY.** The Sheriff of Whatcom County.
- 4.04 **APPOINTMENT—REGULAR.** The appointment of a certified eligible.
- 4.05 **APPOINTMENT—TEMPORARY.** An appointment other than from an eligible register for the purpose of performing work belonging in the classified service. A reduction of a regular employee is not a temporary appointment. Temporary appointment includes emergency appointment.
- 4.06 **ASSIGNMENT.** An employee may be assigned to duties which carry additional salary and additional limited responsibilities and is within the scope of the job description for the position from which assignment is made.
- 4.07 **BREAK IN SERVICE.** A separation from civil service status with a loss of accumulated service credit as occasioned by a "resignation," "discharge," or "retirement."
- 4.08 **CANDIDATE.** Any applicant who has completed, or is in the process of completing, a civil service examination.
- 4.09 **CERTIFICATION.** A list of names from an eligible register transmitted on behalf of the Civil Service Commission to the Sheriff from which the Sheriff may fill a vacancy.
- 4.10 **CERTIFIED ENTRY.** An alternative method of hiring (entry level position only) individuals, who are currently qualified for the position, without requiring the pre-employment EXAMINATION—OPEN GRADED testing process.
- 4.11 **CERTIFY.** Verify to the Sheriff's Office that a list of names of candidates for employment has been selected from the list of persons tested and found eligible for employment.
- 4.12 **CHIEF EXAMINER.** Chief Examiner as defined in Chapter 3.
- 4.13 **COMMISSION.** The Whatcom County Civil Service Commission.
- 4.14 **CONTINUOUS SERVICE.** Employment without interruption, except for absences on approved leave or absence to serve in the Armed Forces of the United States.
- 4.15 **COUNTY.** Whatcom County.
- 4.16 **DEMOTION.** Removal of an employee from a higher to a lower classified position.
- 4.17 **DEPARTMENT HEAD.** Sheriff.

- 4.18 DISCHARGE.** Termination, separation, dismissal, or removal from the service for cause.
- 4.19 ELIGIBLE.** Anyone qualified for a given position through examination and placement on the proper eligible register; also, "certified eligible. "
- 4.20 ELIGIBLE REGISTER.** A list of successful examinees for a given position from which certification may be made to fill vacancies in such position.
- 4.21 EMPLOYEE.** Anyone holding a position in the Civil Service System of Whatcom County.
- A. **EMPLOYEE—REGULAR.** Any employee who has been appointed from a certification and who has satisfactorily served the full probationary period.
  - B. **EMPLOYEE—TEMPORARY.** Any employee appointed to fill an emergency, temporary, or short-term need, or to fill a position for which no register is available (provisional).
  - C. **EMPLOYEE—EXEMPT.** Any employee in a position of employment which is not subject to Civil Service rules and regulations and in which one serves at the discretion of the Sheriff.
  - D. **EMPLOYEE—PROBATIONARY.** A person appointed from a certification who has not yet completed the applicable probationary period.
  - E. A regular employee is the only employee with rights under Rule 19.01(A).
- 4.22 EXAMINATION.** The process of testing the fitness and qualifications of applicants for positions in a specific position.
- A. **EXAMINATION—OPEN GRADED.** An examination open to any member of the public meeting the requirements as stated in the official bulletin announcing such examination.
  - B. **EXAMINATION—PROMOTIONAL.** An examination limited to employees meeting the requirements as stated in the official bulletin announcing such examination.
- 4.23 INTERNAL TRANSFER AND LATERAL ENTRY.** Two alternative methods of hiring (entry level position only) individuals, who are currently qualified for the position, without requiring the pre-employment EXAMINATION—OPEN GRADED testing process.
- 4.24 LAYOFF.** The interruption of service and pay of any regular or temporary employee because of lack of work or funds.
- 4.25 MORAL TURPITUDE.** An act of baseness, vileness, or depravity with respect to a person's duty to another or to society in general, contrary to community standards of justice, honesty, or good morals.
- 4.26 OFFICIAL BULLETIN.** The examination announcement containing basic information about the position, the requirements for applying, how to apply, and other pertinent information which is posted in suitable public locations designated by the Commission.
- 4.27 PERSONAL PRONOUN.** The personal pronoun of the masculine gender shall apply equally to the feminine gender when appropriate.

- 4.28 POSITION.** Any group of duties and responsibilities in the service of Whatcom County which one person is required to perform.
- A. **POSITION—REGULAR.** A position included in the official annual budget, including adopted supplemental budget amendments.
- B. **POSITION—REGULAR PART-TIME.** Employment in a regular position for work on a basis of less than eight hours a day or less than forty hours a week, but on a regular schedule.
- 4.29 PROBATION OR PROBATIONARY.** The status of an employee during a trial period following a regular appointment from an eligible register. This trial period is part of the examination process and is a working test during which an employee is required to demonstrate, by actual performance of the duties, fitness for the position to which certified and appointed.
- 4.30 REDUCTION.** The removal of an employee from a higher classified position to a lower classified position for reasons other than cause.
- 4.31 REGISTER.** A list of candidates for employment who have passed an employment examination whose names may be chosen and certified by the Commission for submission to the Sheriff for consideration for employment. See 4.20, "Eligible Register."
- 4.32 REINSTATEMENT.** Re-appointment of a regular employee to a position which he or she previously held.
- 4.33 REINSTATEMENT REGISTER.** A list of names of persons who were regular employees in a given position and who were laid off and are entitled to reinstatement in such position. A reinstatement register may also include former employees whose request to return to service under Rule 9.03 is approved, and employees on disability retirement who are capable mentally and physically for reinstatement, per Rule 20.02.
- 4.34 RESIGNATION.** A written request by an employee for separation from a position or from Whatcom County service. To be effective, such request must show written approval of the Sheriff.
- 4.35 STANDING - REGULAR.** The full civil service status of a regular employee.
- 4.36 SUSPENSION.** Temporary removal of an employee from employment with or without pay, for cause, or pending determination of charges against the employee which could result in demotion or discharge.
- 4.37 VETERAN'S PREFERENCE.** Preference in examinations and employment based on military service as provided and defined by applicable laws.

## **5. RULE-MAKING**

- 5.01 AMENDMENTS OF RULES.** The Commission may amend these rules or adopt new rules by majority vote of the Commission at any regular or special meeting of the Commission. Unless upon an emergency declared by all Commissioners present, amendment to these rules shall be first discussed in an open regular or special meeting at least one meeting prior to adoption.



Upon declaration of emergency, a rule amendment may be adopted at the meeting at which the amendment is first proposed.

**5.02 EFFECTIVE DATE OF RULES.** All rules and amendments shall become effective immediately upon their adoption by the Commission unless some later date is specified therein.

**5.03 COPIES OF RULES.** A copy of these rules and a copy of all subsequent rules or amendments shall be posted as soon as practicable after adoption to the Civil Service website.

**5.04 EFFECT OF RULES.** The terms and conditions of civil service employment are governed by these rules and by applicable statute and ordinance. No employee shall have a property interest in or as a result of these rules. These rules, and rules the Commission may enact, regulate the mode and appointment of tenure in the civil service, and employees are subject to these rules and amendments thereto.

**6. CLASSIFICATION** For matters of job classification and reclassification, the applicable collective bargaining agreement and Countywide administrative policy shall apply. .

## **7. APPLICATIONS AND APPLICANTS**

### **7.01 GENERAL REQUIREMENTS FOR FILING APPLICATION.**

A. All applicants for examinations for positions in the classified Civil Service must file written application on a form prescribed by the Commission; and no one shall be admitted to any examination without having first filed an application on proper form, giving fully, truthfully, and accurately all information required.

B. In order to file an application for examination, the applicant must:

1. Meet the requirements specified in these rules and in the official examination bulletin as of the closing day of the official filing period;
2. Produce evidence of education, training, experience, or any lawful requirement for a position, as directed by the Chief Examiner.

C. Time for filing applications:

1. All applications for examination shall be filed with the Human Resources Office during office hours and within the time limit fixed in the official announcement of examinations; provided, that upon written evidence of extenuating circumstances acceptable to the Commission, late applications may be accepted. Applications received by mail in the office of the Commission must be received by the close of business on the closing date.
2. The time for filing applications may be extended by the Chief Examiner as the needs of the service require; provided that the examination shall then be re-advertised.

**7.02 APPLICATIONS FOR LATERAL ENTRY.** Applicants for lateral entry Deputy Sheriff and Corrections Deputy must submit a written application as provided in Rule 7.01, and must meet the following minimum qualifications:

- A. The applicant must be or have been employed for at least two (2) years within Washington State either as a full-time, paid peace officer with law enforcement authority (for Deputy Sheriff applicants), or as a corrections deputy with general corrections experience (for Corrections Deputy applicants).
- B. The applicant must have passed a probationary period with a previous law enforcement employer.
- C. The applicant must have no more than a 24-month break in service since the most recent law enforcement employer.
- D. Completion of the Washington State Criminal Justice Training Commission (WSCJTC) Basic Law Enforcement Officer's Academy and current certification as a peace officer (for Deputy Sheriff applicants); or completion of the WSCJTC Basic Corrections Academy or WSCJTC-recognized equivalency academy (for Corrections Deputy applicants).
- E. Possession of a valid Washington State Driver's License and driving record that meets Whatcom County standards.
- F. Be a United States citizen.
- G. Pass a Civil Service approved written examination and oral board.

**7.03 APPLICATIONS FOR CERTIFIED ENTRY.** Applicants for Certified Entry Deputy Sheriff and Corrections Deputy must submit a written application as provided in Rule 7.01, and must meet the following minimum qualifications:

- A. The applicant must have successfully completed the Washington State Basic Law Enforcement Academy (for Deputy Sheriff applicants); or the Washington State Basic Corrections Academy (for Corrections Deputy applicants), by date of application. Application must be received within one year of Academy graduation date, or from separation from active Law Enforcement employment, whichever is later.
- B. Possession of a valid Washington State Driver's License and driving record that meets Whatcom County standards.
- C. Be a United States citizen.
- D. Pass a Civil Service approved written examination and oral board.

**7.04 APPLICATIONS FOR INTERNAL TRANSFER ENTRY.** Applicants for Internal Transfer Deputy Sheriff must submit a written application as provided in Rule 7.01, and must meet the following minimum qualifications:

- A. The applicant must have successfully completed the WA State Criminal Justice Training Commission Basic Corrections Officers Academy or the Corrections Officer Equivalency Academy.
- B. The applicant must be a current employee in good standing with the Whatcom County Sheriff's Office as a Corrections Deputy, with two (2) years continuous service as a full time commissioned Corrections Deputy.
- C. Possession of a valid WA State driver's license and driving record that meets Whatcom County standards.

- D. Be a United States citizen and any other requirement of State law.
- E. Pass a Civil Service approved scored oral board.

**7.05 APPLICATIONS FOR PROMOTIONAL EXAMINATIONS.**

- A. An application shall be accepted from any regularly appointed employee in the positions from which promotion is allowed who, in addition to meeting the requirements of Rule 7.01, has the requisite service credit as designated in the official bulletin.
- B. When designated in the official bulletin, the Commission may permit regular employees and probationers to file for and take a promotional examination for delayed eligibility if on the last day for accepting applications they meet lower specified minimum service requirements in the positions from which promotion is allowed.

**7.06 SPECIAL REQUIREMENTS.**

- A. The Commission may prescribe such limits and such other specific requirements, physical or otherwise, as in the judgment of the Commission are required by and related to the work to be performed.
- B. When designated on the official bulletins, the Commission may permit filing by an applicant not more than one year under the specified minimum age on an open graded/entrance examination, and not more than two years under the specified experience on a promotional examination. A successful candidate will have eligibility until the required minimum age or experience is attained.

**7.07 REJECTION OF APPLICANT OR ELIGIBLE.** The Commission may reject an applicant for examination, withhold from a register or from certification the name of an eligible, or remove from a register the name of an eligible, if the applicant or eligible:

- A. Does not meet the requirements set forth in these rules or in the bulletin announcing the examination;
- B. Is physically or mentally unfit to perform the duties of the position sought;
- C. Has been convicted of any felony or a misdemeanor involving moral turpitude;
- D. Has been dismissed or has resigned in lieu of discharge from any position, public or private, for any cause which would be cause for dismissal from Whatcom County service; or has an unsatisfactory record of employment in Whatcom County service, or with any other agency or firm;
- E. Has made any material false statement or has attempted any deception or fraud in connection with this or any other civil service examination;
- F. Fails to appear for fingerprinting or other investigation as required;

- G. Has assisted in preparing the examination for which application is sought, or has in any other manner secured confidential information concerning such examination which might give an unfair advantage over other applicants in the examination;
- H. After notification, did not promptly appear at the time and place designated for the examination;
- I. Has been discharged from the Armed Forces under dishonorable conditions;
- J. Such actions contemplated by this rule may also be taken for other material reasons.

See Rule 3.05, "Review and Appeal from Actions or Decisions of the Chief Examiner."

#### **7.08 DEBARMENT FROM EMPLOYMENT.**

- A. No one who has been dismissed from the service for cause involving moral turpitude shall be allowed to again enter the service, and anyone dismissed for other good cause shall be allowed to again enter the service only by express consent of the Commission;
- B. Any applicant for appointment, promotion, re-employment, increase of salary, or other personal advantage, who shall directly or indirectly pay or promise to pay any money or other valuable thing to anyone whatever for or on account of such actual or prospective advantage, shall be ineligible for any further employment in the Civil Service.

**7.09 NOTICE OF NON-ACCEPTANCE.** Anyone against whom action is taken under Rule 7.07.A. shall be notified promptly by the Civil Service Commission of the reasons therefore by either oral notice at time of filing the application and/or written notice mailed to the applicant or eligible.

**7.10 ADMISSION TO EXAMINATION PENDING APPEAL.** The Commission may admit to the examination anyone whose application was not accepted, pending final disposition of an appeal, such admission to be without prejudice to either Whatcom County or the applicant.

**7.11 AMENDMENT OF APPLICATION.** The Commission may permit any applicant, before or after acceptance of the application form, to amend the application or to file an amended application.

**7.12 APPLICATIONS NOT RETURNED.** All applications when completed and filed become the property of the Commission and thereafter may not be returned to the applicant.

**7.13 APPLICATION FEE.** Application fee may be charged to cover the cost of testing.

### **8. EXAMINATIONS**

**8.01 ORDERING EXAMINATIONS.** The Commission shall order an examination whenever it is deemed to be in the best interest of Whatcom County. The Chief Examiner shall administer examinations as provided by these rules.

- 8.02 EXAMINATION ANNOUNCEMENT.** Public notice of examinations shall be given by the Chief Examiner at least ten (10) days in advance of the last day for filing of applications, following County administrative policies and procedures.
- 8.03 AMENDMENTS TO ANNOUNCEMENTS.** The Chief Examiner may amend any published announcement with appropriate public notice.
- 8.04 CONTINUOUS EXAMINATIONS.**
- A. A continuous or periodic examining program may be ordered by the Commission for any position other than promotional examinations. Filing will be open, applications received, and the examinations administered according to the needs of the service. The names of qualified eligibles resulting from such examinations shall be entered on the eligible register and certifications for appointments shall be made in the same manner as from any eligible register. Names of eligible from successive examinations in the same program shall be entered on the eligible register for the position at the appropriate places as determined by final grades. Names may be withheld from certification or removed from such eligible registers in the same manner and for the same reasons as from any eligible register.
  - B. To expedite certification and appointment and to maintain security of examination material, no keyed copy of the written test will be provided at any time. The eligible register may be promulgated immediately after the results are obtained.
  - C. Except as above provided, the rules applicable to other examinations shall apply to continuous and periodic examinations.
- 8.05 CHARACTER OF EXAMINATIONS.** All examinations shall be competitive, impartial, and practical in their character. They shall be designed to qualify and rank applicants in terms of their relative fitness to perform the duties of the position for which the examination was ordered. An examination shall be deemed to be competitive when applicants are tested as to their relative qualifications and abilities, or when a single applicant is scored against a fixed standard.
- 8.06 CONTENT OF EXAMINATIONS.** Examinations may include written tests, personal qualifications, physical or performance tests, psychological evaluations, or evaluations of training and experience, interviews, or any other suitable evaluations of fitness, or any combination of such tests. Such tests may evaluate education, experience, aptitude, knowledge, skill, physical condition, personal characteristics and other qualifications to determine the relative fitness of the candidates.
- 8.07 PARTS AND WEIGHTS.** Each examination shall contain one or more parts to which percentage weights shall be assigned, which weights shall total 100%. Each part shall be graded independently. This earned grade shall be multiplied by the percentage weight assigned to such part, and the sum of the resulting products shall be called the Examination Grade.
- 8.08 PASSING GRADES.**
- A. The name of an examinee shall not be entered on an eligible register without the examinee having attained a passing grade in the examination as established by the Chief Examiner.

- B. Tests consisting of interviews and evaluation of experience records shall be graded with 100% as the maximum and with 70% as the minimum to represent the passing grade for such tests.
  - C. Except as provided in Rule 8.08.B., the Chief Examiner shall, before identification of papers, authorize a grading schedule for tests with a minimum passing score which represents an acceptable degree of fitness on such subjects for the position.
- 8.09 QUALIFYING GRADE.** Where any part or parts of an examination relate to qualification deemed essential to proper performance of the duties of the position, the Commission may determine the minimum qualifying grade for each such part or parts. Failure to attain such grade shall disqualify an examinee, without regard to overall examination grade, and shall disqualify the examinee from participation or rating on other parts of the examination.
- 8.10 PROMOTIONAL EXAMINATIONS.** Vacancies in higher classified positions shall be filled by promotion whenever practicable in the judgment of the Commission. Qualifications for a position are as stated in the job description for that position.
- 8.11 OPEN GRADED EXAMINATIONS.** An examination may be advertised as open graded when, in the judgment of the Commission, it is in the best interest of the service.
- 8.12 VETERAN'S CREDIT.** Veterans who have passed an examination shall be entitled to credit pursuant to Chapter 41.04.010 RCW.
- 8.13 SERVICE CREDIT IN PROMOTIONAL EXAMINATIONS.** Regular employees in the classified civil service who receive a passing grade on examinations for promotional appointment in the classified service shall have a credit for continuous service added to such grade, computed as set forth in Rule 12.
- 8.14 KEYED COPY INSPECTION AND EXAMINATION PROTEST.**
- A. Any protest against the scope, content, or practicality of any part of an examination shall be filed in writing with the Chief Examiner within three (3) working days immediately following the administration of such part, or within the time limit specified on the examination instructions sheet.
  - B. When a keyed copy is provided, protests against the proposed keyed answers must be filed in writing within three (3) working days or within the time limitation specified on the examination instruction sheet. No keyed copy will be provided for inspection on standardized tests or on continuous or periodic examinations.
  - C. When a qualifying grade is required on any part of an examination, those who fail to receive the qualifying grade shall be notified and any protest or appeal must be filed in writing within seven (7) working days after the notices of results have been mailed.
  - D. Any protest against scoring or any allegation of clerical error in the final results of an examination must be filed in writing within seven (7) working days after the notices of the results have been mailed.
  - E. All protests filed in accordance with this rule shall be considered and any proper corrections made. If authorized corrections are applicable to other examinees, the corrections shall be made on all examination papers affected.

**8.15 CORRECTION OF CLERICAL ERRORS.** Any clerical error may be corrected by the Chief Examiner upon discovery at any time during the life of the eligible register, but no such correction shall affect an appointment made from a certification made prior to the correction.

**8.16 EFFECTIVE DATE OF EXAMINATION RESULTS.** Results of an examination shall become effective on the date official notice thereof is posted.

**8.17 REEXAMINATION.**

A. No one shall be reexamined for the same position within six months of the effective date of such examination, unless authorized by the Commission upon determination that it would be in the best interest of Whatcom County.

B. If an eligible takes a succeeding examination for the same position, the result of such examination shall not nullify any remaining eligibility already established. Eligibility attained by the second examination shall be entered on the register and the eligibility that will provide the greatest advantage to the eligible shall be used.

**8.18 EXAMINATION PAPERS.** Examination papers of each eligible shall be kept on file in the office of the Commission Chief Examiner until the expiration of eligibility or as required by law, whichever is longer.

**8.19 ADDITIONAL EXAMINATION.**

A. Eligible certified pursuant to Rule 9. shall be subject to medical, physical, and/or psychological examination and to such other examinations administered by the Sheriff's Office as authorized and approved by the Commission. Such other examinations include, but are not limited to, background examination and polygraph. Reports of such examinations shall be filed with the Commission in the event the findings of the examination recommend that the eligible be rejected. The Commission shall consider such recommendation, and may require further examination, and may order the eligible name dropped from the eligible register.

B. The Commission may designate a limited number of certified eligibles for additional examination as provided in Rule 8.17.A., in order to maintain an ability to certify registers pursuant to Rule 10.

**8.20 CERTIFICATION WITHOUT EXAMINATION.**

A. When five (5) or fewer qualified applicants apply to be considered for any promotional register, the Commission may, at the request of the Sheriff, certify the names unranked to the Sheriff without conducting an examination.

B. The Sheriff must attest that all the applicants meet the requirements of the position and are eligible to apply.

C. The Sheriff must attest that all applicants have demonstrated the ability to perform the duties and functions of the position.

**9. REGISTERS AND ELIGIBILITY**

**9.01 ESTABLISHMENT OF ELIGIBLE REGISTERS.** After each examination, an eligible register for the position shall be prepared on which the names of successful candidates shall be ranked as follows:

- A. On a promotional register: Relative rank shall be determined by the examination rating or grade, plus any additional points for service credit plus percentage allowed by law for veterans' preference.
- B. On an open graded register: Relative rank shall be determined by the examination grade plus the percentage allowed by law for veterans' preference.
- C. Priority of time of examination shall not give any preference in rank on the register.
- D. The preference in rank of eligibles having equal final general averages shall be determined as follows, in the order stated:
  - 1. The examinee who qualifies for veteran's preference in accordance with Washington State law. Examinees on a promotional register do not so qualify.
  - 2. When the examination is composed of two or more parts with separate grades, the eligible who has:
    - a. The highest grade on the most heavily weighted part of the examination; if a tie still exists, then the highest grade on the next most heavily weighted part, and so on for as many parts as the examination contains.
    - b. The highest grade on the written test if all parts are weighted equally.
  - 3. When the examination has only one part, or candidates have the same standing under (1.) and (2.) above:
    - a. As between examinees who are Whatcom County employees, the one having the greater service credit with Whatcom County, regardless of position or department.
    - b. If one examinee is a regular or probationary Whatcom County employee and the others are not, the County employee has preference.
  - 4. By lot.
- E. If an applicant is permitted to file for and take an examination for delayed eligibility and if such applicant is successful in the examination, eligibility shall be held in abeyance until the candidate meets the requirements for eligibility, which must be reported to the candidate in writing. If otherwise eligible, the candidate's name shall be placed on the register in accordance with the final examination grade. Any such eligibility shall expire with that of the other eligibles from the same examination.
- F. On a lateral register: Lateral lists will not be "ranked" except at the time the Sheriff elects to draw from said list. The lateral entry list shall remain for two years. A ranking of names shall occur when the Sheriff requests to draw from the list. Scoring shall be by processing the qualified candidates in the order that they made application, through an oral board. For each position requested to be filled in this manner, three (3) similarly obtained names will be presented to the Sheriff consistent with the "Rule of 3."



**9.02 RETURN TO REGISTER FOLLOWING LAYOFF.** On layoff, an employee's name shall be placed upon the proper eligible register for the position, according to grade, for one year from the date of such layoff.

**9.03 RETURN TO ELIGIBLE REGISTER AFTER RESIGNATION OR RETIREMENT.**

- A. A former employee who resigned or retired may request placement of his or her name on a reinstatement register for the position. Such request must be made within one year from date of resignation or retirement; provided, the Commission may extend the above time limitation for not to exceed an additional four years upon satisfactory showing that such extension would be in the best interest of the County.
- B. Any such request for placement on a reinstatement register following resignation or retirement must be supported by written recommendation of the Sheriff.
- C. A former employee whose eligibility is reinstated under this rule shall be certified according to civil service rules.
- F. The name of a former employee who resigned or retired may not be returned to a promotional register unless such return shall have been within one year from the date of resignation or retirement, have been recommended by the Sheriff, and approved by the Civil Service Commission.

**9.04 APPOINTMENT WITHOUT EXAMINATION.** Except as provided in 9.02, 9.03, and 9.09 any return to civil service shall be by examination only.

**9.05 ESTABLISHMENT OF REINSTATEMENT REGISTERS.**

- A. The names of regular employees who have been laid off or, when requested in writing by the Sheriff, probationary employees who have been laid off, shall be placed upon a reinstatement register for the same position and for the department from which laid off for a period of one year from the date of layoff. A former employee who resigned or retired may also be placed on a reinstatement register per Rule 9.03, above.
- B. Upon the request of the Sheriff, the Commission may approve the certification of anyone on such a reinstatement register as eligible for appointment on an open competitive basis.
- C. Anyone on a reinstatement register who becomes a regular employee in another position shall lose reinstatement rights to their former position.
- D. Refusal to accept an offer of regular work from a reinstatement register shall terminate all rights granted under this chapter; provided, no one shall lose reinstatement eligibility by refusing to accept appointment in a position other than the one from which laid off.

**9.06 DURATION OF ELIGIBLE REGISTERS.**

- A. If an applicant is permitted a delayed administration of an examination, and is successful in such examination, that applicant's eligibility shall expire with that of other eligibles from the same examination.
- B. In no event shall a register remain in effect for less than six nor more than twenty-four months. Duration of each register depends on the needs of the service as

demonstrated by the Sheriff to the Chief Examiner. Individual names shall remain on the register for the time period determined for that register, unless removed under Rule 9.08 or restored under Rule 9.09.

- C. Eligibility upon return of a name to an eligible register following resignation or retirement shall be for one year from such return.
- D. Lateral entry lists shall be indefinite with the individual names remaining on the register for two (2) years, unless hired from the list or removed as provided by the Civil Service Rules or removed for cause as provided in Section 9.08 of these rules.

#### **9.07 AVAILABILITY OF ELIGIBLES.**

- A. It shall be the responsibility of an eligible to notify the Civil Service Commission in writing immediately of changes in address, telephone number, change of name through marriage or otherwise, or any changes which may affect availability for employment.
- B. The name of an eligible who submits a written statement restricting the conditions under which available for employment shall be withheld from certifications which do not meet the conditions specified. New written statements may be filed at any time within the duration of an eligible register modifying conditions under which employment would be accepted.

#### **9.08 CANCELLATION OF ELIGIBILITY.**

- A. Any eligible's name may be removed from an eligible register for failure to pass a required examination or upon receipt of proof of material physical or mental disability preventing the eligible from performing the essential functions of the position, bad character, or other unfitness, fraudulent conduct, or false statements by the eligible or by others with the collusion of the eligible, in connection with any application, examination for, or securing of an appointment. A previous unsatisfactory work record with the County or dismissal from the service, or dismissal from any position, public or private, for any cause which would be cause for dismissal from Whatcom County service shall be deemed cause for cancellation of eligibility;
- B. Separation from the service will terminate any promotional eligibility;
- C. Upon request of the Sheriff's Office that an eligible has failed to respond to call, or has refused to accept employment, the Commission may strike the eligible name from the register;
- D. Failure to respond to the canvass of a register within fourteen (14) days from such canvass shall be deemed cause to strike the name of any eligible from the register;
- E. Refusal to accept re-employment in a regular position shall constitute separation from the service except as provided in Rule 9.05.E.;
- F. Such action contemplated by this rule may also be taken for other material reasons.

#### **9.09 RESTORATION OF NAMES TO ELIGIBLE REGISTERS.** The name of an eligible which has been removed from a register may be restored upon written request to the Commission for such restoration. The request must specify the reasons for such

restoration. The Commission may approve the request if it is deemed that the evidence submitted justifies such approval.

## **10. CERTIFICATION AND APPOINTMENT**

**10.01 GENERAL PROVISIONS.** Vacancies in the classified civil service shall be filled by reinstatement, promotional, lateral, certified entry, open graded appointment, transfer, or demotion.

**10.02 REQUEST FOR CERTIFICATION.** Whenever the Sheriff wishes to fill a vacancy, a Human Resources Requisition shall be submitted for County Executive approval.

### **10.03 CERTIFICATION.**

A. Certification to fill a vacancy shall be made by the Commission from registers in the following order and as provided in this rule:

1. Reinstatement
2. Promotional
3. Lateral Entry
4. Certified Entry
5. Open Graded and/or Internal Transfer

B. Order of reinstatement.

1. If a vacancy is to be filled from the reinstatement register, the following shall be the order of certification:
  - a. Regular employees in the order of their length of service. The regular employee on such register who has the most service credit shall be first reinstated.
  - b. Probationers, without regard to length of service. The names of all probationers upon the reinstatement register shall be certified together.
2. Upon request from the Sheriff, the Commission may authorize reinstatement out of such regular order upon a showing of efficiency or that such action is for the good of the service and after giving the employees adversely affected an opportunity to be heard.

C. Filling vacancies.

1. If a vacancy is to be filled from a promotional, lateral, or certified entry register, the Commission shall certify to the Sheriff the names of five (5) available eligibles who stand highest on the appropriate register.
2. If a vacancy is to be filled from an open graded or internal transfer register, the Commission shall certify to the Sheriff the names of fifteen (15) available eligibles who stand highest on the appropriate register.

- D. If two or more vacancies are to be filled from any of the above registers other than the reinstatement register, the name of one additional eligible shall be certified for each additional position.
- E. If the Sheriff makes an acceptable showing that any of the eligibles certified are not available or that they do not respond, sufficient additional names shall be furnished to complete certification.
- F. Where a certification of eligibles with special experience, training, or skills is requested in writing by the Sheriff as being necessary for satisfactory performance in a particular position, and the Commission determines that the reasons given fully justify the request, a certification may be made of only the highest ranking eligibles who possess the special qualifications. Certification of eligibles of only one sex shall not be made unless there is clear evidence that efficient performance of duties to be assigned could be performed only by the sex specified.
- G. If a temporary vacancy is to be filled from an open or a promotional register, those eligibles with three (3) months of service who are shown on the register as having been laid off within the last twelve (12) months from the Sheriff's Office shall be placed in grade order at the head of the list of eligibles for certification according to rule.
- H. The application and the examination papers of a certified eligible shall be available for inspection by the Sheriff.

**10.04 REGULAR APPOINTMENT.** A regular appointment to fill a vacancy must be made from names contained on the official certification. The official appointment report shall show the name of the person appointed, the effective date, the salary, the nature or duration of the appointment, and any other information required by County administrative policy and procedures.

**10.05 TEMPORARY APPOINTMENT.** Where there is no suitable eligible register from which certification can be made, the Sheriff may make a temporary appointment, following County administrative policy.

## **11. PROBATION**

### **11.01 PROBATIONARY PERIOD.**

- A. After each full-time or part-time regular appointment from an eligible register, the employee shall serve a complete period of probation before the appointment is deemed complete.
- B. A regular employee who has been reduced to a lower classified position in which he or she has not had regular standing shall have probationary status in the lower classified position for twelve (12) months from the date of such reduction.

**11.02 LENGTH OF PROBATIONARY PERIOD.** The period of probation shall be equivalent to fifteen (15) months of full-time service following regular appointment from an eligible register; except that the period of probation for a promotional appointment or demotion per Rule 17.02 shall be twelve (12) months, and for a reinstatement appointment shall be the length of probation remaining unserved at the time of layoff or resignation, if any. Minor absences due to vacations, annual military leave, illness, etc., shall not be construed as interrupting the probationary period unless an absence or absences are

considered to be excessive to the extent that the Commission will approve a Sheriff's Office request for an extension of the probationary period.

**11.03 INTERRUPTION OF PROBATIONARY PERIOD BY MILITARY SERVICE.** A probationer who engages in active military service on an extended basis shall be considered as having an interrupted probationary period. Such employee may continue the probationary period following return from military leave.

**11.04 SERVICE IN ANOTHER POSITION.** Service in a position or office other than the one to which an eligible is regularly appointed may be credited toward completion of a probationary period if the Commission has approved the written statement of the Sheriff to the effect that the probationary period may be properly judged on the basis of service in the other position or office.

**11.05 PROBATIONARY DISCHARGE OR DEMOTION.**

- A. The Sheriff, by assigning in writing to the Commission the reasons therefore, may discharge any probationer. Such reasons need not constitute just cause and shall not otherwise be reviewed by the Commission except as provided in Rule 19.01.B.
- B. A probationer may be demoted to a position he or she previously held for inability to perform satisfactorily the duties of the position to which he or she was appointed, in accordance with Rule 17.02 on demotion and any applicable collective bargaining agreement.

## **12. SERVICE CREDIT**

**12.01** Service credit in a position for a regular employee shall be computed to cover all service subsequent to regular appointment to that position. Service credit shall be computed in the following manner: one half point shall be added for each full year of continuous service as a regular employee in the classified service up to a maximum of twenty (20) years, or of ten (10) points. Service Credit shall be applicable as follows:

A. General Provisions:

1. After completion of the probationary period, service credit will be given for employment in the same, equal, or higher classified position, and shall include any temporary or intermittent employment served in the same position under a regular appointment.
2. Subject to approval by the Commission at the request of the affected employee, service credit will be given for service in positions exempt from civil service.
3. Service credit will be given for previous regular employment of an incumbent in a position which has been reclassified and in which he/she has been continued with recognized standing.
4. Credit will be given for service prior to an authorized transfer.
5. Credit will be given for time lost during:
  - a. Jury duty;
  - b. Disability incurred in line of service;

- c. Illness or disability compensated for under any plan authorized and paid for by the County;
  - d. Service as a representative of a union affecting the welfare of County employees;
  - e. Service with the Armed Forces of the United States, including, but not to exceed, twenty-one (21) days prior to entry into active service; and not to exceed ninety (90) days after separation from such service;
  - f. Service with the Armed Forces during the annual leave for military training.
- B. No service credit shall be given:
- 1. For service of a regular employee in a lower classified position to which he/she has been reduced and in which he/she has not had regular standing, except from the time of such reduction;
  - 2. For any employment prior to a separation from the service other than by a resignation which has been withdrawn as provided by Rule 16.02. (Layoff of a regular employee does not constitute a separation from the service for purposes of this rule.)
  - 3. For applicants for Internal Transfer Deputy Sheriff.
- C. Service Credit for Military Service during Probationary Periods. If military service as specified in Rule 11.03 is during the probationary period, such time shall be credited at straight time after the probationer returns to work and completes the required probationary period.
- D. Service Credit for Promotion. Credit as specified in this rule shall be allowed for:
- 1. Recognized service in all the positions from which promotion is allowed;
  - 2. Service in classified assignments and in higher classified positions;
  - 3. Time lost during military service as specified in Rule 12.01-A.5.e.;
  - 4. Time lost due to injury or disability incurred on the job;
  - 5. Time spent as a representative of a union affecting the welfare of County employees.
- E. Special Provisions for Service Credit in Layoff. In layoff, credit shall be given as specified in Rule 12.01-A.1. through 5. inclusive.
- F. Service Credit for Salary Increase. Service for salary increases shall be as prescribed by the legislative authority.

### **13. TRANSFER**

**13.01 TRANSFERS, GENERALLY.** The transfer of an employee is treated the same as the filling of any other vacancy under these Rules and County administrative policy.

**13.02 PROMOTION.** The transfer of an employee shall not constitute a promotion in the service except as provided in Rule 13.04.C. below.

**13.03 ASSIGNMENT CHANGES.** The Sheriff may transfer an employee from one assignment to another in the same position without prior approval of the Commission, but must report such transfer to the Commission at its next regularly scheduled monthly meeting.

**13.04 OTHER TRANSFER.** Transfer may be made upon consent of the Sheriff and with the approval of the Commission as follows:

- A. Transfer to another position in case of injury in line of duty either with County service or with the Armed Forces in time of war, resulting in permanent partial disability where showing is made that the transferee is capable of satisfactorily performing the duties of the new position;
- B. Transfer, in lieu of layoff, may be made with limited standing to another position upon showing that the transferee is capable of satisfactorily performing the duties of the position and that a regular employee or probationer is not displaced;
- C. Transfer, in lieu of layoff, may be made with limited standing to another position when such transfer would constitute a promotion or advancement in the service; provided, a showing is made that the transferee is capable of satisfactorily performing the duties of the position and that a regular employee or probationer is not displaced and when transfer in lieu of layoff under Rule 13.04.B. is not practicable. Regular standing in the new position may be attained by the employee only through examination and regular appointment;
- D. The Commission may approve a transfer under A. B. C. above with the consent of the Sheriff and upon a showing of circumstances justifying such action.

## **14. LAYOFF**

**14.01 ORDER OF LAYOFF.** In a given position, the following shall be the order of layoff:

- A. Temporary employees not earning service credit;
- B. Probationers (except as their layoff may be affected by military service during probation);
- C. Regular employees in the reverse order of their seniority, as defined in the applicable collective bargaining agreement, the one with least seniority being laid off first;
- D. If the regular position is not covered by a collective bargaining agreement, layoff shall be determined at the sole discretion of the Sheriff.

**14.02 LAYOFF OUT OF ORDER.** The Commission may grant permission for layoff out of the regular order upon a showing by the Sheriff of a necessity, therefore, in the interest of efficient operation of the Sheriff's Office and after giving any employee or employees affected an opportunity to be heard.

**14.03 REDUCTION IN LIEU OF LAYOFF.** At the time of any layoff, a regular employee or a promotional probationer shall be given an opportunity to accept reduction to the next lower classified position in the Sheriff's Office, provided a showing is made that the

employee is capable of satisfactorily performing the duties of the position, and following Rule 14.01 for order of layoff. Alternately, he/she may be transferred as provided by Rule 13.04, Transfer in Lieu of Layoff. An employee so reduced shall be entitled to credit for any previous regular service in the lower classified position and to other service credit in accordance with the Service Credit Rule 12.

## **15. LEAVES OF ABSENCE**

### **15.01 DURATION OF LEAVES.**

- A. A leave of absence without pay for a period not exceeding thirty (30) consecutive days may be granted by the Sheriff who shall give notice of such leave to the Commission.
- B. A request for a leave of absence longer than thirty (30) days bearing the favorable recommendation of the Sheriff may be granted by the Commission.
- C. No employee shall be given leave to take a position outside County service for more than thirty (30) days in any calendar year, except where it appears to be in the best interest of the County.

**15.02 RETURN FROM LEAVE.** At the expiration of the authorized leave of absence, a probationer or regular employee shall resume work in the same position, with standing and service credit as determined by these rules.

**15.03 MILITARY LEAVE.** See applicable County policy and Washington State law relating thereto.

**15.04 FILLING VACANCY.** All temporary employment caused by leaves of absence shall be made pursuant to Rule 10.

## **16. RESIGNATION**

**16.01 HOW SUBMITTED.** Resignation of any employee from the service shall be made in writing and filed with the Commission after approval by the Sheriff.

**16.02 WITHDRAWAL OF RESIGNATION.** The Commission may permit the withdrawal of a resignation only upon a written request filed within one hundred eighty (180) days from the effective date of the resignation and if such request for withdrawal bears the favorable recommendation of the Sheriff.

**16.03 RETURN TO ELIGIBLE REGISTER FOLLOWING RESIGNATION.** (See Rule 9.03.)

## **17. DISCIPLINE—DISCHARGE**

### **17.01 SUSPENSION—DISCHARGE.**

- A. The Sheriff may suspend a subordinate, with or without pay, for a period not to exceed thirty (30) days for good cause.
- B. The Sheriff may discharge a subordinate for good cause.



## **17.02 DEMOTION.**

- A. Demotion of an employee to a lower classified position for good cause may be made by the Sheriff.
- B. An employee so demoted shall lose all rights to the higher classified position.
- C. If the employee has not had previous standing in the lower classified position, such demotion shall not displace any regular employee or any probationer. The Commission shall be satisfied as to the ability of such demoted employee to perform the duties of the lower classified position and shall require the completion of a probationary period, per Rule 11.02.

## **17.03 DISCIPLINE—GOOD CAUSE—ILLUSTRATED.** The following are declared to illustrate adequate causes for discipline; discipline may be made for any other good cause:

- A. Incompetency, inefficiency, or inattention to, or dereliction of duty;
- B. Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, or any other act of omission or commission tending to injure the public service or any other willful failure on the part of the employee to properly conduct him or herself;
- C. Mental or physical unfitness for the position which the employee holds;
- D. Dishonest, disgraceful, or prejudicial conduct;
- E. Drunkenness or use of intoxicating liquors, narcotics, or any other habit-forming drug, liquid, or preparation to such extent that use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position under civil service;
- F. Conviction of a felony, or a misdemeanor involving moral turpitude;
- G. False or fraudulent statements or fraudulent conduct by an applicant, examinee, eligible, or employee, or such actions by others with his or her collusion;
- H. Willful or intentional violation of any lawful and reasonable regulation, order, or direction made or given by a superior officer;
- I. Willful or intentional violation of any of the provisions of these rules.

## **18. PRE-DISCIPLINARY HEARING**

**18.01 PRE-DISCIPLINARY HEARING—REQUIRED.** The Sheriff shall provide and arrange for a pre-disciplinary hearing prior to demotion, suspension, or discharge of a subordinate, in accordance with any applicable collective bargaining agreement provisions.

### **18.02 PRE-DISCIPLINARY HEARING—STANDARDS/NOTICE OF DISCIPLINE.**

- A. An employee shall be provided, in writing, with a notice of the charge or charges and an explanation of the Sheriff's Office evidence. The employee shall be given an opportunity to respond to the charges, orally or in writing, as to why the Sheriff's Office proposed action should not be taken.

- B. The employee may have legal counsel or union representative present at a pre-disciplinary hearing.
- C. The Sheriff's Office explanation of its evidence at the pre-disciplinary hearing shall be sufficient to apprise the employee of the basis for the proposed action. This rule, however, shall not be construed to limit the employer at subsequent hearing from presenting a more detailed and complete case, including presentation of witnesses and documents not available at the pre-disciplinary hearing.
- D. Should the Sheriff determine to discipline following the pre-disciplinary hearing procedure, written notice of intended discipline shall be given to the employee. Such notice shall include the charges against the employee and a general statement of the evidence supporting the charges.
- E. The Commission shall not consider, on appeal, any basis for disciplinary action not previously presented to the employee.

## **19. HEARINGS**

### **19.01 HEARINGS—APPEALS.**

- A. Any regular employee who is demoted, suspended, or terminated may appeal such action to the Commission.
- B. Any employee who is alleged to be probationary by the Sheriff's Office may only appeal to the Commission the questions of his or her probationary status and whether the procedures for discharge of probationers, as found in these rules, were properly followed.
- C. Any employee, or the Sheriff's Office, adversely affected by an alleged violation of Civil Service rules or County policy may appeal such violation to the Commission.

**19.02 APPEALS—TIME—FORM.** A notice of appeal shall be filed with the Commission within ten (10) days of the action that is the subject of the appeal. The notice of appeal shall be in writing and include the mailing address and street address where service of process and other papers may be served upon the appellant. The notice of appeal shall also contain a brief statement of the reason for the appeal. Forms provided by the Commission may be used for such notice, but are not required.

### **19.01 EXHAUSTION OF ADMINISTRATIVE REMEDIES.**

- A. The Commission may, when not inconsistent with the terms of a collective bargaining agreement, direct the employee to exhaust available administrative procedures regarding a disciplinary matter before hearing the matter itself. See Rule 18.
- B. If the employee exhausts the available administrative procedures and continues to believe that good cause has not been shown, the employee may, within ten (10) days after the final step of the procedure, request that the Commission return the appeal for a hearing.

### **19.04 AUTHORITY OF COMMISSION CHIEF EXAMINER.**

- A. The Chief Examiner to the Commission shall have the authority to make orders of preliminary matters, including motions for discovery and to compel discovery, continuance, protective orders, and other similar matters. Such orders may be appealed to the Commission. The Chief Examiner may also conduct pre-hearing settlement conferences in order to encourage resolution of contested matters, issue subpoenas, and note depositions.
- B. The Commission may authorize the Chief Examiner to investigate any reports or appeals relating to the enforcement or application of the Civil Service or those rules which do not involve a disciplinary proceeding. The Chief Examiner shall report the results of the investigation to the Commission in an open meeting. On the basis of such report, the Commission shall either dismiss the report or appeal as being without basis or set the matter for a full hearing.
- C. As an aid to investigations authorized by the Commission, the Chief Examiner may subpoena any documents that would be discoverable for purposes of hearing preparation and may take depositions by tape recorder of any person who may have relevant knowledge. Depositions so taken shall be kept as part of the records of the Commission.

**19.05 APPEALS—INITIAL REVIEW.** The Chief Examiner shall review all appeals to determine whether the employee has timely filed an appeal and whether the action appealed from is a final action. Upon determination that the appeal is not timely, the Chief Examiner shall issue a written order of dismissal with prejudice, setting forth the basis of the dismissal. In the case of an action that is not final, the appeal shall be stayed until such action becomes final. Such orders may be appealed to the Commission.

**19.06 APPEALS—NOTICE OF HEARING.** Upon receipt of a notice of appeal, the Chief Examiner shall forward a copy of the notice to other affected parties. As soon as possible thereafter, but in any event within ten (10) days, a hearing before the Commission shall be set not later than thirty (30) days from receipt of the notice. Subsequent hearings on the same appeal shall have one week's notice unless waived by the parties. All parties may agree to waive the notice provisions and time limits provided by this section.

**19.07 APPEALS—AUTHORITY OF SHERIFF'S OFFICE.** The exercise of jurisdiction by the Commission over a matter does not preclude the party from withdrawing, modifying, or otherwise compromising the matter prior to the matter going to hearing. Upon resolution of a matter prior to hearing, any party may request the dismissal of the matter. A stipulation signed by both parties should be submitted to the Commission prior to such dismissal.

**19.08 SERVICE OF PROCESS—PAPERS.**

- A. The Chief Examiner shall cause to be served all orders, notices, and other papers issued by the Commission, together with any other papers that the Commission is required by these rules to serve. Every other paper shall be served by the party filing the notice, document, or paper.
- B. All notices, documents, or papers served by either the Commission or a party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service of papers shall be by personal service, or by registered or certified mail, or by regular mail with written acknowledgement shall be

by affidavit of the person who mailed the papers, or by certificate of any attorney or the Chief Examiner.

- C. Service upon parties shall be regarded as complete when personal service has been accomplished, or by mail (U.S. or inter-city), upon deposit in the mail properly stamped and addressed.
- D. Papers required to be filed with the Commission shall be deemed filed upon actual receipt of the papers by the Chief Examiner at the Commission address. All papers except the original appeal notice shall be served with the original and three copies. Briefs and memoranda must be filed with the Commission at least three (3) days prior to any hearing involving matters discussed in said brief or memoranda. Documentary evidence is not required to be filed but, rather, provided at the hearing.
- E. An appellant or petitioner is responsible for notifying the Commission in writing of any change in mailing or street address and telephone number. Failure to so notify the Commission shall constitute a waiver of service and notice under these rules.

#### **19.09 DISCOVERY.**

- A. Parties to a proceeding are required to provide to each other reasonable access and discovery to all relevant information concerning the matter before the Commission. Any questions concerning relevancy or access shall be resolved by order of the Chief Examiner.
- B. Upon the failure of any party to comply with an order of the Chief Examiner compelling discovery, the Chief Examiner shall schedule the matter before the Commission for review and determination of appropriate sanctions.

#### **19.10 SUBPOENAS.**

- A. Every subpoena shall identify the Commission and the title of the proceedings, if any, and shall command the person to whom it is directed to attend, at a specified time and place, and give testimony or produce designated books, documents, or things under that person's control.
- B. Upon application of any party or his/her representative, the Chief Examiner shall issue to such party summons requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The party requesting the subpoena is responsible for having said subpoena properly served. Such requests for subpoenas shall be submitted to the Commission at least three (3) days prior to the hearing.
- C. Service of subpoena shall be made by serving a copy of the subpoena on the person named therein.
- D. The person serving the subpoena shall make proof of service by filing the subpoena at the Commission office; and if such service has not been acknowledged by the witness, the person serving the subpoena shall make an affidavit of service. Failure to file proof of service does not affect the validity of service.
- E. Upon a motion promptly made by a party or by the person to whom the subpoena is directed, and upon notice to the party on whose behalf the subpoena was issued, the Commission may:

1. Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or
2. Condition denial of a motion to quash or modify upon just and reasonable conditions.

**19.11 BURDEN OF PROOF.** At any hearing on appeal from a demotion, suspension, or termination, the Sheriff's Office shall have the burden of showing by a preponderance of the evidence that its action was in good faith for cause. At any other hearing, the petitioner or appellant shall have the burden of proof by a preponderance of the evidence.

**19.01 EVIDENCE.**

- A. Subject to other provisions of these rules, all competent and relevant evidence shall be admissible, in accordance with RCW 41.14.060.
- B. Witnesses in any hearing may be examined orally, under oath or affirmation, and shall be subject to cross-examination by opposing parties and the Commission.
- C. When a party objects to the admissibility of evidence, the Commission may receive such evidence subject to a later ruling. The Commission may exclude inadmissible evidence and may order cumulative evidence discontinued in its discretion, whether or not a party raises an objection. A party objecting to the introduction or exclusion of evidence shall state the grounds of such objection at the time such evidence is offered or excluded. No such objection shall be deemed waived by further participation in the hearing.
- D. If a party wishes to offer documentary exhibits into evidence in a hearing before the Commission, the party shall furnish copies to the opposing party, to each Commission member, and to the Chief Examiner.
- E. Parties are encouraged to stipulate to the admissibility of documentary exhibits. To further this end, parties will make request of other parties for such stipulation no later than three (3) days in advance of the hearing, barring unusual circumstances. The party of whom the requests made shall respond to the requesting party no later than one (1) day prior to the hearing.

**19.13 DELIBERATION.** The Commission may deliberate in closed (executive) session when taking a disciplinary case under advisement. Deliberations by the Commission shall otherwise be subject to Chapter 42.30 RCW. No person other than the Chief Examiner and legal counsel to the Commission shall be present during deliberation. No person shall attempt to convey any information or opinion to the Commission concerning any matter on appeal, other than in open hearing.

**19.14 DECISION.** In any appeal, the Commission shall issue a decision, including findings of fact, conclusions of law, and an order, to each party or counsel of record for each party. A decision shall be issued within thirty (30) days of the close of the hearing of an appeal or other proceeding heard only by the Commission. Absent the consent of an appellant to an extension of time, failure to issue a decision within the time prescribed shall result in an appeal being sustained.

**19.15 REMEDIES.** The Commission may issue such remedial orders as deemed appropriate.

**19.16 RECONSIDERATION.** A party may move for reconsideration by the Commission only on the basis of fraud, mistake, or misconception of facts. Such motion must be filed with the Commission within ten (10) days of the decision of the Commission. Such motion for reconsideration shall be decided on affidavits, absent special showing that testimony is necessary.

**19.01 WAIVER.** Upon stipulation of all parties to a proceeding, and upon a showing that the purposes of the rules or ordinances of the County would be better served, the Commission may waive the requirements of any of these rules.

## **20. RETIREMENT AND DISABILITY**

**20.01 RETIREMENT.** All matters of retirement are governed by the Washington Department of Retirement Systems.

### **20.02 REINSTATEMENT AFTER DISABILITY RETIREMENT.**

A. The Commission shall review any report from a retirement system showing that a former employee who is on disability retirement has regained his or her health to the extent to be employable.

1. Upon being satisfied that the employee is physically and mentally competent to perform the duties of the regular position, the Commission shall:

- a. Order return of the employee to former employment status as if a leave of absence had been granted, or
- b. Place the name on the reinstatement register for an available position and department.

2. The name of an employee who is employable but not fully recovered shall be placed on the most advantageous reinstatement register for the same department, for an equivalent or lower classified position comprised of duties the employee is competent to perform, as determined by the Commission.

3. If such an employee's name is placed on a reinstatement register, service credit acquired previous to retirement shall be continued. The employee shall be reinstated from such register and transferred or reduced in grade according to rules. Eligibility rights shall not expire as prescribed in the case of layoff.

B. Any reinstatement in a position other than that in which last employed shall not result in a promotion.

C. The provisions of this rule shall not apply in the event an employee is discharged from the service and concurrently given a disability retirement.

## **21. MISCELLANEOUS**

**21.01 REPEALS AND SAVINGS.** All matters shall be subject to these rules and, to that extent, all previous Civil Service rules are hereby repealed.

### **21.02 COMPUTATION OF TIME.**

- A. In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a County observed holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor County observed holiday. When the period of time prescribed or allowed is ten (10) days or less, intermediate Saturdays, Sundays, and County observed holidays shall be excluded in the computation.
- B. Any period of time except for the stated period of time set forth in Rules 19.02, 19.06, and 19.14 may be extended by the Commission for no more than fourteen (14) days and for good cause. The motion for extension of time must be filed with the Commission prior to the running of the applicable time period.
- C. The date of notice for purpose of these rules shall be the date on which notice of an action is posted in the Commission's office or is mailed to a party to a proceeding.

**21.03 RECOGNITION AWARDS.** As authorized by RCW 41.60.150, the Sheriff may recognize Civil Service employees for high performance in their positions, or for a specific project or incident, with a Recognition Award. As stated in RCW 41.60.150, "Recognition awards may not exceed two hundred dollars in value per award. Such awards may include, but not be limited to, cash or such items as pen and desk sets, plaques, pins, framed certificates, clocks, and calculators. Award costs shall be paid by the agency giving the award."

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