

PIMA COUNTY

LAW ENFORCEMENT MERIT SYSTEM RULES

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The following words and terms as used in these Rules shall have the meaning indicated below unless the context clearly indicates otherwise:

- I-1 ADMINISTRATIVE SUSPENSION: A non-disciplinary suspension without pay or with reduced pay in the best interest of the County imposed upon an employee who is under investigatory or judicial proceedings.
- I-2 ALLOCATION: The assignment of a position to a classification on the basis of the duties and responsibilities assigned to the position.
- I-3 APPEAL: A request to the Law Enforcement Merit System Council to hear and review a complaint alleging improper suspension, demotion, dismissal, or termination under Rule XI-10.A through C.
- I-4 APPELLANT: An employee who files an appeal with the Law Enforcement Merit System Council.
- I-5 APPLICANT: A person seeking County employment or an employee seeking reappointment, detail, promotion or demotion within County employment, who has completed and returned on a timely basis an official Pima County Application Form according to instructions.
- I-6 APPOINTING AUTHORITY: The Sheriff.
- I-7 APPOINTMENT: The official offer of employment and acceptance by an applicant in accordance with these Rules.
- I-8 ASSIGNMENT APPOINTMENT: The official offer of employment to a qualified employee, and the employee's acceptance, to serve at the discretion of the Sheriff as the Chief Deputy, Bureau Chief or Captain-Unclassified in accordance with these rules.
- I-9 ARS: Arizona Revised Statutes.
- I-10 AUDIT: A review of the duties and responsibilities of a position in order to determine proper allocation.
- I-11 BOARD: The Pima County Board of Supervisors.
- I-12 BUSINESS DAYS: Monday through Friday, 8:00 AM to 5:00 PM, excluding holidays, as provided by law.
- I-13 CANDIDATE: An applicant approved for participation in an examination process.

- I-14 CERTIFICATION: The process by which Human Resources identifies/certifies eligible applicants to continue in the recruitment selection process for a particular position.
- I-15 CLASS SPECIFICATION: The official document defining essential functions of the job, the type and level of duties and responsibilities and the minimum qualifications of positions assigned to a particular classification.
- I-16 CLASSIFICATION: A title and code assigned to a grouping of similar duties and responsibilities as described in the appropriate class specification.
- I-17 CLASSIFICATION SYSTEM: The orderly arrangement of positions under separate and distinct classifications on the basis of current duties and responsibilities.
- I-18 COMMISSIONER: A member of the Pima County Law Enforcement Merit System Council.
- I-19 COMPENSATION: The salary, wage, allowances, and all other forms of valuable consideration earned by or paid to an employee except reimbursement for necessary expenses which have been authorized and incurred.
- I-20 CONTINUOUS ANNOUNCEMENT: The official notice of employment opportunities in Pima County for which applications are accepted on a continuing basis for a period of at least six (6) months.
- I-21 COUNCIL: The Pima County Law Enforcement Merit System Council.
- I-22 COUNTY: Pima County Government.
- I-23 COUNTY ADMINISTRATOR: Highest ranking Administrator for the Board of Supervisors.
- I-24 COUNTY EMPLOYEE: A person appointed to and currently filling a paid position within the County.
- I-25 COUNTY-FUNDED POSITION: A position funded by legally established recurring revenue to the County.
- I-26 COUNTY-WIDE ANNOUNCEMENT: The official notice posted on the County's website of employment opportunities limited to County employees.
- I-27 DEMOTION: A change in the assignment of an employee from a position of one classification to a position of another classification having a lower starting salary.
- I-28 DEPARTMENT: A County governmental unit which has a separate operating budget approved by the Board.

- I-29 DESIGNEE: A Sheriff's Department employee with a rank of captain or above selected by the Sheriff to perform a job, duty or task.
- I-30 DETAIL: The assignment of an employee to temporary duty which exceeds fifteen (15) working days to a position other than the position to which regularly assigned.
- I-31 DISMISSAL: The involuntary termination of a person from County employment for a disciplinary reason. For the purposes of employee appeals pursuant to these Rules a resignation in lieu of dismissal shall be deemed to be a dismissal.
- I-32 ELIGIBLE APPLICANT: An applicant who has applied for a specific employment opportunity posted on the County's website, and whose previous work experience and/or education meet the eligibility requirements for the classification as determined by the Human Resources Department.
- I-33 EMERGENCY APPOINTMENT: An appointment with a duration of not more than thirty (30) working days within a twelve (12) month period, that is required by a governmental state of emergency.
- I-34 EXEMPT EMPLOYEE: An employee who is not eligible for overtime compensation under the Fair Labor Standards Act and Personnel Policy 8-102.
- I-35 FULL-TIME POSITION: A position which provides employment for eighty (80) hours per pay period.
- I-36 GRIEVANCE: A complaint alleging misinterpretation, misapplication, or unequal enforcement of County Personnel Policies, Law Enforcement Merit System Rules, Administrative Procedures, or alleging unlawful discrimination. It is also defined as a complaint following receipt of a Letter of Reprimand.
- I-37 INTERMITTENT EMPLOYEE: A person who has been hired for seasonal, on call, or as-needed employment that does not exceed one thousand forty (1040) paid hours per fiscal year.
- I-38 INTRADPARTMENTAL ANNOUNCEMENT: The official notice posted on the County's website of employment opportunities limited to employees in a specific department.
- I-39 LAW ENFORCEMENT MERIT SYSTEM: The uniform and equitable system of personnel administration under state statutes and regulations.
- I-40 LAYOFF: The conditional termination of a permanent employee due to lack of funds, reduced demand for services, functions and programs, elimination of a position, failure to successfully complete promotion probation, or other reasons specified in these Rules.

- I-41 LATERAL APPOINTMENT: The appointment to a Deputy Sheriff position and the filling of the position by a person who is not a Pima County employee and who has Arizona P.O.S.T. certification and a minimum of two years experience as a Peace Officer in the State of Arizona at the time of appointment.
- I-42 NON-EXEMPT EMPLOYEE: An employee who is eligible for overtime compensation under the Fair Labor Standards Act and Personnel Policy 8-102.
- I-43 PART-TIME POSITION: A position which provides employment for less than eighty (80) hours per pay period.
- I-44 PERMANENT EMPLOYEE: A regular employee who has successfully completed initial probation.
- I-45 PRE-LAYOFF REAPPOINTMENT: The appointment of a County employee who has been notified of layoff, prior to the effective date of the layoff, to a classification of the same or lower salary.
- I-46 PROBATION: A specified period of employment following initial appointment, reemployment, reinstatement, reappointment, promotion, rehire, or demotion, which is the final step in the examining process during which an employee is evaluated.
- I-47 PROBATIONARY EMPLOYEE: A regular employee serving initial probation who may be terminated without cause and with no right of appeal.
- I-48 PROMOTION: A change in the assignment of an employee from one classification to another classification having a higher starting salary.
- I-49 PUBLIC ANNOUNCEMENT: The official notice posted on the County's website of employment opportunities with the County open to the public.
- I-50 REALLOCATION: A change in the classification assigned to an existing position.
- I-51 REAPPOINTMENT: A competitive or non-competitive change in the assignment of an employee from one position to another of any classification having the same or lower starting salary.
- I-52 REASSIGNMENT: A competitive or non-competitive change in the assignment of an employee from one position to another of the same classification and salary within the Sheriff's department.
- I-53 RECLASSIFICATION: A change in the classification of an employee when his/her position has been reallocated.

- I-54 REEMPLOYMENT: The appointment of a laid-off employee to a classification, other than the classification from which laid off or an appointment following Uniformed Services leave under Personnel Policy 8-103.
- I-55 REGULAR EMPLOYEE: An employee who is employed full-time, part-time, or variable-time on a continuous and continuing basis.
- I-56 REHIRE: The appointment of a former permanent status employee who resigned in good standing to a classification in the same or lower grade.
- I-57 REINSTATEMENT: The appointment of a laid-off employee to a position of the same classification in the Sheriff's Department from which laid off, or the returning of an employee as ordered by the Law Enforcement Merit System Council.
- I-58 RESOLUTION: The Pima County Law Enforcement Merit System Resolution adopted by the Pima County Board of Supervisors on April 19, 1971, and any subsequent amendments or additions thereto.
- I-59 RESPONDENT: The Sheriff or the other individuals named by the Appellant, whose interests are adverse to those of the Appellant or who will be directly affected by the Council's decision in an appeal
- I-60 SELECTIVE CRITERIA: Key position-specific factors within a classification, such as specialized knowledge and/or experience, or special background or qualifications, or a particular geographic area, used to identify/certify eligible applicants.
- I-61 SENIORITY: The number of hours of continuous employment with Pima County.
- I-62 SUSPENSION: An involuntarily imposed leave without pay or with reduced pay.
- I-63 TEMPORARY EMPLOYEE: An employee who has been appointed on a full-time, part-time, or variable-time basis for limited period not exceeding eighteen (18) months.
- I-64 TERMINATION: Separation of an employee from County employment.
- I-65 USERRA: Refers to the Uniformed Services Employment and Reemployment Rights Act.
- I-66 VACANT POSITION: A position currently under recruitment or available to be filled as determined by the Sheriff.
- I-67 VARIABLE-TIME POSITION: A position which provides employment for an as-needed number of hours per work week.

- I-68 WORK DAY: Any designated hours within a twenty-four (24) hour period during which an employee is scheduled to work at a prescribed work place or on duty. Holidays are not work days unless the employee is scheduled to work.
- I-69 WORK PERIOD: Any established and regularly recurring period of work which cannot be less than seven (7) consecutive days nor more than twenty-eight (28) consecutive days.
- I-70 WORK RELEASE TIME: Time off work with pay.
- I-71 WORK WEEK: All time within a seven (7) day period during which an employee is required to perform prescribed duties at a prescribed work place or on duty. Work weeks shall begin at 12:01 a.m. Sunday and end at 12:00 midnight the following Saturday.

II-1 BASIC OBJECTIVES

The purpose of these Rules is to establish for the Pima County Sheriff's Department a system of personnel administration for Law Enforcement Officers that is based on merit principles and designed to ensure the following:

- A. That recruitment and selection be competitive with final appointment predicated on job-related ability and qualifications;
- B. That compensation and classification reflect the responsibility and difficulty of the work and a competitive position with respect to the labor market;
- C. That involuntary separation from County service be for a disciplinary reason as defined herein, or for other reasons as specifically provided in these Rules and Pima County Personnel Policies;
- D. That disciplinary action be taken only for a disciplinary reason as defined herein;
- E. That no unlawful discrimination be practiced.

II-2 REPRISALS

The Sheriff shall take no disciplinary or punitive action against any employee to impede or interfere with the legitimate exercise by any employee of his/her rights.

II-3 JURISDICTION

- A. These Rules shall apply to all Law Enforcement Officers of the Sheriff's Department pursuant to ARS 38-1001 et seq. and the Resolution.
- B. Amendments to these Rules may be made by the Law Enforcement Merit System Council in accordance with the Resolution.

II-4 MEMBERSHIP IN ORGANIZATION

No person in the Sheriff's Department shall attempt to prohibit or intimidate any employee from belonging to or holding office in any lawful organization. Membership in such organizations shall not be considered as a factor in any personnel action.

II-5 SERVICE OF NOTICE

Unless otherwise provided by Law or these Rules, whenever any notice, paper or document is to be given to or served upon any person or department by the Council, the Director of Human Resources, Appointing Authority or Designee, such notice, paper, or document may be personally served, or it may be served by mailing to the last known residence or business address of the addressee. Service is complete upon mailing.

II-6 DELEGATION OF RESPONSIBILITY

Where the Director of Human Resources has agreed in writing to delegate certain responsibilities covered in these Rules to the Sheriff in order to increase the efficiency of the organization, the Sheriff has the responsibility of applying all Law Enforcement Merit System Rules to the delegated actions and for conducting them in the same manner as would the Director of Human Resources.

II-7 SEVERABILITY

If any provision of these Rules, or the application thereof to any person or circumstances, is held invalid, the remainder of these Rules, or the application of such provision to other persons or circumstances, shall not be affected.

II-8 CONFLICT WITH FEDERAL AND STATE REQUIREMENTS

Any provision of these Rules which conflicts or is inconsistent with Federal and/or State Laws, Statutes, Rules, or Regulations shall be invalid to the extent of such conflict or inconsistency.

III-1 MEETINGS AND PUBLIC NOTICES

The time and location of each meeting of the Pima County Law Enforcement Merit System Council shall be fixed by the Council not less than two (2) weeks preceding the date of the meeting and shall not be held without at least twenty-four (24) hours notice to the members of the Council and the general public posted in at least one (1) public place in the County buildings. The Council shall file a statement with the Clerk of the Board of Supervisors stating where all public notices of Council meetings will be posted. In case of an actual emergency, a meeting may be held upon such lesser or other notice as is appropriate under the circumstances. Notice required under this section shall include an agenda of the matters to be discussed or decided at the meeting or information on how the public may obtain a copy of such agenda. Such agenda must be available to the public at least twenty-four (24) hours prior to the meeting, except in the case of an actual emergency.

III-2 AGENDA

All matters to be presented for consideration by the Council at a regular meeting or special meeting shall be placed upon the Council's agenda without undue delay. The agenda shall be mailed to each member of the Council not less than five (5) business days prior to such meeting. Matters which have not been placed upon the agenda shall not be considered by the Council except in the case of an actual emergency, in which case a statement setting forth the reasons necessitating such emergency discussion, consideration, or decision shall be placed in the minutes of the meeting, and, at the public meeting, shall be publicly announced.

III-3 NOTICE TO PARTIES AND SHERIFF

Human Resources shall, at least five (5) business days prior to the meeting, mail or cause to be mailed to the Sheriff and to the parties to appeals pending before the Council, a copy of the notice of each meeting of the Council, and either an agenda for the meeting or information as to how an agenda may be obtained. Failure of the Sheriff or said parties to receive the notice and/or agenda shall not affect the validity of the meeting or of any action taken by the Council at said meeting, if notice was properly posted pursuant to Rule III-1 herein.

III-4 MINUTES

Human Resources shall provide for the recording of the official actions of the Council in the minutes of its meetings. Such minutes shall include, but not be limited to:

- A. The date, time and place of the meeting.

- III-4 B. The members of the Council recorded as either present or absent.
- C. An accurate description of all legal actions proposed, discussed or taken and the names of the members who propose each motion.
- D. The names of the persons, as given, making statements or presenting material to the Council and a reference to the legal action about which they made statements or presented material.
- E. When requested, the dissent of any member as to any matter voted upon, and his or her reasons therefor.

Human Resources shall cause the minutes to be transcribed and presented for approval or amendment at a future meeting. The minutes, a true copy thereof certified by a majority of the Council, or a recording of the occurrences at said meeting, shall be open to public inspection three (3) business days after the meeting, except as otherwise provided by law.

IV-1 ANNOUNCEMENTS

A. PUBLIC ANNOUNCEMENTS

Public announcements shall be by public notice for a minimum of five (5) business days. Open-continuous announcements shall be open for a minimum of five (5) business days before certification may occur. Copies of public announcements shall be posted on the County's website and distributed to County departments, individuals and organizations as Human Resources deems appropriate.

B. INTERNAL ANNOUNCEMENTS

An internal announcement shall be open for a minimum of five (5) business days.

1. County-wide: Internal announcements open County-wide shall be posted on the County's website and reasonable efforts shall be made to communicate with County employees concerning promotional opportunities.
2. Intradepartmental: At the determination of the Sheriff, recruitment may be limited to employees of the Sheriff's Department.
3. All reasonable efforts shall be made to communicate with Sheriff's department employees concerning employment opportunities.

C. CONTENT OF ANNOUNCEMENTS

An announcement shall specify the official classification title, salary grade, classification code number, description of work to be performed or where this information may be obtained, the minimum qualifications and any special qualification, the final date for receipt of applications or statement of open-continuous recruitment, the nature of the examination process and how to apply.

IV-2 APPLICATION PROCESS

- A. All employment applications and required supplemental information shall be in electronic format compatible with and prescribed by the County's electronic applicant tracking system.
- B. Employment applications will only be accepted when a valid opening has been announced and during the opening period posted on the County's website. Acceptance of an application into the County's applicant tracking system shall not be construed as incurring an obligation.

IV-2 C. DISQUALIFICATION

Human Resources may refuse to examine an applicant, or, after the examination process, may disqualify a candidate or remove an eligible applicant's name from the recruitment process if it is found that the individual:

1. Does not meet the minimum qualifications established for the classification or position;
2. Is determined to be physically or mentally unable to effectively or safely perform the work of the classification applied for;
3. Is addicted to narcotics or other substances in a manner which would affect the ability to safely, effectively and dependably perform the duties of the classification applied for;
4. Has made a false statement of, or failed to disclose, a material fact in the application process;
5. Has used or attempted to use political pressure or bribery to secure an advantage in the examination or in the appointment to a position in County employment;
6. Has indirectly or directly obtained information to which the candidate is not entitled regarding any examination;
7. Has failed to submit the completed application correctly or within the prescribed time limits;
8. Has taken part in the compilation, administration, or correction of the examination in which he/she is competing;
9. Has previously been dismissed for a disciplinary reason from a position in County employment;
10. Has been convicted of a crime or has a record of convictions, the nature of which would affect the applicant's suitability for employment;
11. Has failed to appear for a scheduled examination or interview;
12. Has failed any phase of the examination process;
13. Has a record of unsatisfactory performance on previous jobs;

- IV-2 C. 14. Has been determined by Human Resources to be unsuitable for employment for any other job-related reason; or
15. Has otherwise violated the provisions of the Arizona Revised Statutes (ARS), these Rules, or Pima County Personnel Policies.

IV-3 CHARACTER OF EXAMINATIONS

- A. Examinations for entrance to the Sheriff's Department shall be conducted on an open competitive basis. Examinations shall be practical in nature, and shall be constructed to reveal the capacity of the applicant for the particular position for which the applicants are competing as well as their general background and related knowledge and shall be rated objectively. A practical written test shall be included, except when the Council determines that such a written test is impracticable.
- B. Examinations may include a competitive performance test, a rating of training and experience, an oral examination, and any other form of examination(s) approved by the Director of Human Resources or any combination thereof.
- C. Human Resources may assign definite weights to each part of the examination prior to its public announcement.

IV-4 CONDUCT OF EXAMINATIONS

Written tests shall be conducted simultaneously or continuously in as many places as are necessary and convenient. Human Resources shall arrange for such monitors and facilities as may be necessary.

IV-5 EXAMINATION SCORES AND PASSING POINTS

Based on appropriate and available statistical techniques and procedures, Human Resources shall:

- A. Approve the passing point for each test or section of the examination;
- B. Determine the method of combining the scores of such tests or sections; and,
- C. Establish final scores.

IV-6 RATING TRAINING AND EXPERIENCE

When training and experience form a part of the total examination, Human Resources shall determine a procedure for the evaluation of the training and experience qualifications of the various applicants. The formula used in appraisal shall give due regard to recency and quality of experience and to the pertinency of the training. This procedure shall allow for the substitution of training for experience, and experience for training, within the limits stated in the classification plan.

IV-7 INVESTIGATIONS

Human Resources may investigate the applicant's training and experience to verify the statements contained in the application and to gather evidence regarding character and fitness. Should investigations produce information affecting the statement of the applicant's application or the rating of training and experience, Human Resources shall disqualify or re-rate the applicant's record accordingly. Human Resources shall promptly notify the applicant when such action is taken.

IV-8 ORAL EXAMINATIONS

When an oral examination forms a part of the total examination, the Sheriff or designee shall appoint such oral examination boards as are necessary. An oral examination board shall consist of at least three members who are qualified and technically familiar with the character of work in the position for which the applicant is being examined. No member of the oral examination board shall, at the time of service, be an Elected Official or be a candidate for any elective office.

IV-9 NOTICE OF EXAMINATION RESULTS

Each applicant who has successfully completed application and examination requirements shall be notified. An eligible applicant, upon request and presentation of proper identification, shall be entitled to information concerning his/her relative position among the identified/certified applicants. An applicant who fails any part of the examination or the total examination shall be notified of his/her failure.

IV-10 SPECIAL EXAMINATIONS

No applicant shall be given a special examination except to correct an error for which Pima County was responsible. A statement of the reasons for any such examination shall be filed with the applicant's examination records. Except in the case of a manifest error affecting the applicant, or in the case of placement of the disabled, no candidates shall be given a special examination in any manner not afforded all candidates for the same classification.

IV-11 MEDICAL AND BEHAVIORAL SCIENCE EVALUATIONS

After offer of employment, an employee must pass all required psychological and medical evaluations before initial appointment.

IV-12 EXAMINATION RECORDS

Human Resources shall be responsible for the maintenance of all records pertaining to applications and examination processes. Applications and other records shall be kept as long as may be required by law.

IV-13 PREFERENCE POINTS

Veteran's preference shall be granted in compliance with federal law and state statute. Disability preference shall be granted in accordance with state law. Native American preference shall be granted in compliance with the Board of Supervisors' Native American employment policy. Preference points will be awarded during the pre-certification process for applicants who have received a passing score on an employment application. Preference points allow eligible applicants additional opportunity to be interviewed or otherwise reviewed by the hiring department for an initial appointment and shall not ordinarily be used to displace otherwise qualified candidates.

No person eligible for preferences pursuant to this section shall be awarded more than fifteen (15) preference points.

- A. Veteran: Veterans meeting the statutory requirements shall be awarded five (5) preference points.
- B.
 - 1. Disabled Veterans: A total of ten (10) preference points shall be awarded to a disabled veteran with a service connected disability who meets the statutory requirements and submits the required documentation. Preference points awarded to disabled veterans shall not be combined with veteran or disabled applicant preference points.
 - 2. Disabled applicants: Five (5) preference points shall be awarded to disabled applicants if the applicant has substantiated the disability by completing a Pima County disclosure form and submitting it to the Human Resources Department in accordance with established procedures.
- C. Spouse or Surviving Spouse: The spouse or surviving spouse of a veteran who meets the statutory requirements shall be awarded five (5) preference points.

- IV-13 D. Native Americans: Five (5) preference points shall be awarded to Native Americans who meet the membership requirements of an established tribe and submit the required documentation to show they are recognized as members of that tribe. Native American preference points shall be awarded in addition to veteran's and/or disability preference points.
- E. Active Corrections Officers: Five (5) preference points shall be awarded to active Corrections Officers employed by the Pima County Sheriff's Department upon application for Deputy Sheriff.
- F. Active Corrections Officers: Five (5) additional preference points shall be awarded to active Corrections Officers employed for at least 36 continuous months by the Pima County Sheriff's Department upon application for Deputy Sheriff.

IV-14 INSPECTION OF EXAMINATION

- A. Examination answer sheets shall be open to inspection only as provided by these Rules.
- B. Request by a candidate to inspect his/her examination results must be made in writing to the Director of Human Resources within thirty (30) calendar days after date of the examination.
- C. A candidate may compare his/her answer sheets for any written test with the scoring key at such location and with such security procedures as may be designated by the Director of Human Resources for the purpose of determining whether the answers have been accurately scored. Such inspection shall be under supervision of a Human Resources Department staff member or authorized representative.
- D. Any candidate who reviews his/her answer sheets with a score key must wait ninety (90) calendar days from the date of review before retaking a written test where the same test materials are to be used.

IV-15 ADJUSTMENT OF ERRORS

Human Resources, after appropriate review, may adjust the status of an applicant, candidate, or eligible applicant in order to correct a manifest error. Such adjustment shall not, however, invalidate any certification or appointment action already taken.

V-1 RECRUITMENT PROCESS

Applicants seeking consideration for additional vacancies in a classification for which they have already applied must submit a new application to the new requisition for the vacant position once it is posted on the County's website. Human Resources shall be responsible for the establishment and maintenance of the recruitment process for all classifications.

V-2 REMOVAL OF NAMES FROM A RECRUITMENT PROCESS

A. The Director of Human Resources may remove the name of an eligible applicant from a recruitment process at any time for any of the following reasons:

1. Any of the reasons specified in Rule IV-2 C;
2. When the eligible applicant cannot be located despite reasonable efforts by the Sheriff or Human Resources;
3. Receipt by Human Resources or the Sheriff of any written communication from the eligible applicant that consideration for a position in the classification is no longer desired, or that the eligible applicant is no longer available for appointment;
4. Refusal or rejection by the eligible applicant of an offer of appointment;
5. Failure to respond to a reinstatement notice and/or refusal to accept reinstatement;
6. The cancellation of a recruitment process.

B. When an eligible applicant is removed from a recruitment process, the eligible applicant affected shall be notified.

V-3 REINSTATEMENT

A. An employee who is laid off from a County-funded position may apply for reinstatement within thirty (30) calendar days after the effective date of the layoff by completing a candidate profile in the County's applicant tracking system and notifying his/her assigned HR Analyst via phone, email or in person of the desire to participate in a specific recruitment process. The employee shall be included in the recruitment process and identified/certified for the classification from which laid off for one (1) year from the effective date of the layoff.

- V-3 B. It shall be the laid-off employee's responsibility to verify with the Human Resources Department his/her current address and phone number, and to notify the Human Resources Department of any changes of address or phone number by updating his/her candidate profile in the County's applicant tracking system.

V-4 INTERNAL RECRUITMENT PROCESS

- A. An employee who is laid off may apply for reemployment within thirty (30) calendar days after the effective date of the layoff by completing a candidate profile in the County's applicant tracking system and notifying his/her assigned HR Analyst via phone, email or in person of the desire to participate in a specific recruitment process. The employee shall be included in recruitment processes for classifications for which identified/certified for one (1) year from the effective date of the layoff.
- B. Any permanent status employee who resigned in good standing in accordance with these Rules shall be entitled, upon written request within one (1) year, to participate in an internal recruitment process for rehire for a period of one (1) year from the date of separation. Former employees, eligible for rehire, may be ranked by Human Resources in accordance with the procedure used to rank eligible applicants for internal recruitment processes.

VI-1 REQUEST FOR ELIGIBLE APPLICANTS

The Sheriff or designee shall request eligible applicants in order to fill vacant positions in the classified service by submitting an official requisition in the manner prescribed by the Director of Human Resources.

VI-2 IDENTIFICATION/CERTIFICATION OF ELIGIBLE APPLICANTS

A. REQUEST PROCEDURE

Upon receipt of a requisition, Human Resources shall identify/certify eligible applicants to continue in the selection process and the following shall be observed:

1. If the requisition is to fill a position in a classification for which there are reinstatement applications from employees laid off from that classification in the Sheriff's Department, only the employees laid off from the Sheriff's Department will be identified/certified. The Sheriff shall appoint from the identified/certified applicants.
2. In all instances other than that described in A.1, the Sheriff's Department shall indicate on its requisition one of the following competition sources and applicants shall be identified/certified as follows:
 - a. If "Department Promotion Only" is specified, only internal eligible applicants of the Sheriff's Department will be identified/certified.
 - b. If "County Promotion Only" is specified, only eligible applicants who are County employees will be identified/certified.
 - c. If "Open Competitive" is specified, all eligible applications will be identified/certified.

VI-2 B. NUMBER OF NAMES OF ELIGIBLE APPLICANTS

1. SINGLE VACANCY

For one (1) vacancy, Human Resources shall identify/certify the names of the five (5) eligible applicants with the highest final ratings or any lesser number of eligible applicants if fewer than five (5) names are contained in the recruitment process. Any recruitment for one (1) vacancy which contains at least three (3) names shall constitute a complete recruitment. If fewer than three (3) eligible applicants are available for identification/certification, those

VI-2 B. 1. available will be authorized to participate in the selection process with the concurrence of the Sheriff.

2. MULTIPLE VACANCIES

If a requisition is received to fill more than one (1) vacancy from the same recruitment, Human Resources shall establish procedures for identifying/certifying additional names.

C. AVAILABILITY OF ELIGIBLE APPLICANTS

An eligible applicant shall be certified on the basis of indicated availability for employment consideration. It shall be the responsibility of the eligible applicant to notify Human Resources in writing of any change affecting availability for appointment.

VI-3 SELECTIVE CERTIFICATION

Human Resources may make a selective certification of eligible applicants to the Sheriff from identified/certified applicants when the vacant position requires specialized knowledge and/or experience, special background or qualification within the particular classification, or within a particular geographic area.

VI-4 BREAKING TIES FOR CERTIFICATION

When two or more composite scores are identical, Human Resources shall break any ties by the following methods in the order named:

- A. First, the highest oral examination score shall be ranked.
- B. Second, the highest written test score shall be ranked.
- C. Third, the highest experience evaluation shall be ranked.
- D. If none of the above factors break a tie, the eligible applicants shall be certified as one rank and this shall be so indicated on the list of identified/certified applicants.

VI-5 TIMELINESS OF SELECTION PROCESS

- A. The life of a recruitment process during which action may be taken shall be fixed by Human Resources giving consideration to the area, type of position, and other factors, and may be extended by the Director of Human Resources.

- VI-5 B. A change in an applicant's status or application may affect his or her identification/certification as an eligible applicant.
- C. A promotional recruitment process shall expire in twelve (12) months unless the recruitment process is specifically extended for a maximum of one additional twelve (12) month period by the Director of Human Resources at the request of the Sheriff. A final extension may be granted by the County Administrator for up to an additional twelve (12) months.
- D. A public recruitment process shall expire in twelve (12) months unless the recruitment process is specifically extended for a maximum of one additional twelve (12) month period by the Director of Human Resources at the request of the Sheriff.

VI-6 SELECTION FROM ELIGIBLE APPLICANTS

- A. If an appointment is made, the Sheriff or designee shall select one (1) of the eligible identified/certified applicants.
- B. All eligible identified/certified applicants shall be contacted, if possible, by the Sheriff or designee in order to make the best selection and offer equal opportunity to each eligible applicant.
- C. The Sheriff or designee shall indicate the action taken on each eligible identified/certified applicant in the manner prescribed by the Director of Human Resources.

VII-1 REGULAR APPOINTMENTS

Except as otherwise provided in these Rules, all appointments shall be made from the list of identified/certified applicants as determined by Human Resources.

VII-2 TEMPORARY APPOINTMENTS

A temporary appointment may be made for up to a maximum of eighteen (18) months.

VII-3 INTERMITTENT APPOINTMENTS

An intermittent appointment shall not exceed one thousand forty (1040) hours worked per fiscal year without prior approval by the County Administrator, for up to a maximum of one thousand four hundred (1400) hours per fiscal year. An intermittent appointment may be continued from year to year without further certification. Intermittent appointments shall be made for non-exempt classifications only.

VII-4 REHIRE APPOINTMENTS

The appointment of a person who was formerly a permanent status employee who resigned in good standing as provided for in these Rules shall constitute a rehire. A person so rehired shall be subject to the successful completion of a probationary period in accordance with these Rules.

VII-5 REINSTATEMENT APPOINTMENTS

A reinstatement appointment may be made for a laid-off employee into a position of the same classification from which laid off, or the return of an employee as ordered by the Law Enforcement Merit System Council.

VII-6 EMERGENCY APPOINTMENTS

The appointment of an employee without regard to the examination requirements of these Rules to a position by reason of a governmental emergency shall constitute an emergency appointment. An emergency appointment may not exceed thirty (30) business days in duration and is non-renewable. Emergency appointments shall have the prior approval of the Human Resources Director except for night, or weekend, or holiday emergencies which will be reported to the Human Resources Director the following business day.

VII-7 LATERAL APPOINTMENT

The appointment to a Deputy Sheriff position and the filling of the position by a person who is not a Pima County employee and who has Arizona P.O.S.T. Certification and a minimum of two years experience as a Peace Officer in the State of Arizona at the time of appointment. A person so hired shall be subject to the successful completion of a probationary period in accordance with these rules.

VII-8 ASSIGNMENT APPOINTMENTS

- A. Vacancies in the classification of Bureau Chief and Captain-Unclassified shall be filled by assignment appointment of individuals from the appropriate commissioned officer classification in the classified service. Selection of individuals for the assignment appointment to Bureau Chief and Captain-Unclassified shall be made by the Sheriff, utilizing a process as determined by the Sheriff. The individual selected shall be reviewed by Human Resources to ensure he/she meets the minimum desired qualifications of the classification of Bureau Chief or Captain-Unclassified prior to the assignment appointment being made.
- B. Individuals on assignment appointments to the classification of Bureau Chief or Captain-Unclassified shall serve at the discretion of the Sheriff. No individual so appointed shall lose the regular previous classification held and the Sheriff shall ensure that a position in that previous classification is available for the individual to return to should the assignment appointment be ended.
- C. Vacancies in the classification of Chief Deputy may be filled by assignment appointment of an individual from a commissioned officer classification in the classified system.
- D. Individuals on assignment appointment to the classification of Chief Deputy shall serve at the discretion of the Sheriff. If previously in a commissioned officer classification in the classified system, no individual so appointed shall lose the regular previous classification held and the Sheriff shall ensure that a position in that previous classification is available for the individual to return to should the assignment appointment be ended
- E. Individuals serving on an assignment appointment as a Bureau Chief, Chief Deputy or Captain-Unclassified shall still be able to compete for promotion to a classification higher than their regular classification held.

VIII-1 PROMOTION

Vacancies in County employment may be filled by promotion. Promotions shall be competitive and the selection made from applicants who have been identified/certified as eligible by Human Resources.

VIII-2 PROMOTION BY COMPETITIVE EXAMINATION

If the Sheriff elects to fill vacancies in the classifications of Sergeant, Lieutenant, or Captain, he/she shall fill the vacancies by promotional competitive examination, given under the direction of the Director of Human Resources. To be eligible to compete for promotion, an employee must have completed initial probation, not be on promotion probation and currently be in the next lower rank classification. The employee must meet the minimum qualifications as to training and experience for the classification.

- A. Seniority Points: For promotional process seniority points, seniority is defined as current continual service as a commissioned officer with the Pima County Sheriff's Department.
- B. Continual service: For promotional process is defined as employment which has no break in service.
- C. Break in service is defined as when a termination action has taken place. Pursuant to USERRA, a termination action for the purpose of military service is not considered a "break in service" if the employee has been separated for less than five years.
- D. Termination action for purposes of promotional process seniority points is defined as separation of an employee from employment as a commissioned officer with the Pima County Sheriff's Department.

VIII-3 DEMOTION

A. Involuntary

1. Failure of Promotion Probation

An employee who fails to successfully complete the promotion probationary period shall be involuntarily demoted to a position with the same classification and to the same salary step previously held, plus any salary increases awarded to others in the demoted classification for which the employee would have been otherwise eligible had he/she remained in the previous classification to which

VIII-3 A. 1. demoted as determined by the appointing authority. An employee demoted under this Section shall have no right of appeal.

2. Disciplinary Demotion

An employee may be involuntarily demoted for a disciplinary reason upon certification by Human Resources that the employee meets the minimum qualifications for that classification.

3. Notice of Demotion

The Sheriff shall furnish the employee with a written Notice of Demotion prior to or no later than the effective date of the demotion. The date of receipt must be documented. Copies of the Notice of Demotion shall be provided to Human Resources and (in the case of disciplinary demotion only), to the Clerk of the Board of Supervisors.

In the case of a disciplinary demotion, the Notice of Demotion shall contain specific reason(s) for the demotion in sufficient detail to inform the employee of the reason(s) for the action and shall advise the employee of the right to appeal the demotion to the Law Enforcement Merit System Council within ten (10) calendar days of presentation of notice. If all attempts to deliver the Notice of Demotion fail, the right to appeal expires seventeen (17) calendar days from the date of demotion.

B. Voluntary

1. If an employee submits a written request for a voluntary demotion within the Sheriff's Department, the Sheriff may make the demotion non-competitively upon certification by Human Resources that the employee meets the minimum qualifications. A copy of the employee's written request shall be provided to Human Resources. An employee demoted under this section shall have no right of appeal.

2. An employee may voluntarily demote through the competitive process. The employee shall have no right of appeal.

VIII-3 B. 3. If an employee sustains a job-related injury or illness which precludes working in the current classification, the Sheriff's Department may grant the employee a demotion non-competitively upon the request of the employee and certification by Human Resources that the employee meets the minimum qualifications. The employee must also meet the minimum medical requirements for the new position.

VIII-4 REASSIGNMENT

The Sheriff has the authority to make reassignments within the department. Reassignments shall be reported to Human Resources.

VIII-5 DETAIL

- A. When the services of an employee are needed temporarily for more than thirty (30) working days in a budgeted position within County employment other than the position to which regularly assigned, upon prior approval of the Director of Human Resources the employee may be detailed to that position for a period up to one (1) year. A competitive process shall be used to fill any detail which exceeds thirty (30) working days.
- B. When the services of an employee are needed temporarily for sixteen (16) to thirty (30) working days in a budgeted position, the Sheriff may detail an employee non-competitively to the special duty assignment.
- C. An employee is eligible for detail only if that employee meets the minimum qualifications of the classification as determined by Human Resources upon detailing or upon completion of the detail assignment.
- D. A detail to a budgeted position exempt from the Law Enforcement Merit System shall not result in abridgement of any rights the employee may have prior to detail.
- E. Exceptions to the conditions of a special detail may be authorized by the Director of Human Resources.

VIII-6 EFFECTIVE DATE

- A. The effective date for actions defined in Rule VIII shall be the first day of the pay period following the Sheriff's approval, unless otherwise addressed in policy (To include item VIII-6 B below). The effective date for actions defined in Rule VIII not requiring the Sheriff's approval shall be the first day of a pay period.

VIII-6 EFFECTIVE DATE

- B. The effective date for the promotion of a county employee into the classification of deputy sheriff shall be the first date of employment for employees newly hired into the classification. In the event an academy class for deputy sheriff consists of promoted employees only, the effective date shall be academy orientation day.

IX-1 NATURE OF PLAN

The Classification Plan as approved and adopted by the Law Enforcement Merit System Council, upon recommendation of the Sheriff, shall include for each class of positions an appropriate title and a class specification. The Director of Human Resources shall maintain the official class specifications in the classification plan. The Law Enforcement Merit System Council may establish new classifications and abolish existing classifications based upon the recommendation of the Sheriff. The Law Enforcement Merit System Council may review standards and qualifications for all positions that are classified and make recommendations to the Director of Human Resources.

IX-2 INTERPRETATION OF CLASS SPECIFICATIONS

A. Nature and Interpretation of Class Specifications

Class specifications are descriptive and explanatory and are not restrictive. The language of class specifications is not to be construed as limiting or modifying the authority which the Sheriff has to add or delete duties and responsibilities, so long as such changes fall within the general guidelines of the classification of the position involved.

B. Title of Position

The class specification title of a position shall be used in all financial and personnel documents.

C. Minimum Qualifications

Minimum qualifications are statements of the minimum background as to education, experience, and other qualifications which shall be required in all cases as evidence of an appointee's potential to properly perform the work.

IX-3 ALLOCATION/REALLOCATION PROCEDURES

A. Allocation Factors

Every position in the classified service shall be allocated by Human Resources, after consultation with the Sheriff, to the appropriate class in the Classification Plan. The allocation of a position to a classification shall be determined by the duties and responsibilities of the position. Positions shall be allocated to the same classification if they meet the following requirements:

1. Sufficient similarity with respect to duties and responsibilities;

- IX-3 A. 2. Substantially the same requirements as to training and experience, knowledge and ability;
3. Substantially the same test of fitness; and
4. The same schedule of compensation

B. Official Position Audit Requests

1. An employee who thinks he/she is being worked out of classification may file a written request for a review with the Sheriff who shall investigate the situation and take the following actions:
- a. Resolve the concern through informal discussion with the employee and document the resolution. Consultation with Human Resources may be necessary for clarification of the classification. It is the responsibility of the Sheriff to consider all possible options to resolve the situation without working the employee out of classification.
- b. If the Sheriff believes that there is sufficient justification, he/she may request an official position audit by Human Resources. Documentation supporting the request shall be forwarded to the Director of Human Resources.
2. If the employee disagrees with the action taken by the Sheriff, the employee may file a written request with the Director of Human Resources for a review of the position by official position audit. Such requests shall be routed through the Sheriff who shall attach the documentation describing the Department resolution.

C. Reallocation of Existing Positions

Upon a written request from the Sheriff or an employee for an official position audit, the Director of Human Resources shall determine whether a material and permanent change in the duties or responsibilities of a budgeted position has occurred. Human Resources may identify the need to schedule and conduct an official position audit and, if so, shall determine whether to reallocate a budgeted position and take appropriate action. Approval of the County Administrator is required prior to implementation if the reallocation results in a classification of a higher salary grade.

D. Effective Date

The effective date of all classification and compensation actions shall be the first day of the pay period following County Administrator approval unless otherwise specified.

X-1 GENERAL PROVISIONS

- A. The probationary period shall be one (1) year in duration, except the initial probationary period for the classification of Deputy Sheriff which shall be eighteen (18) months, and subject to paragraph B. of this section. The probationary period of a Deputy Sheriff rehired under section X-2.E of this rule and Deputies hired by lateral appointment under section X-2.F shall be one (1) year.
- B. If an employee uses leave or is placed on leave for more than eighty (80) consecutive working hours during any period of probation, the probation shall be adjusted for a period equal to the number of hours of leave.

If an employee is placed on restricted or limited duty status, the probation may be adjusted for a period equal to the number of hours on restricted or limited duty.
- C. If an employee serving promotion probation exercises bump rights in lieu of layoff during the probationary period, promotion probation shall be suspended during service in the lower classification. Should the employee accept an offer to return to the former, higher, classification when an opening becomes available, promotion probation shall resume and be adjusted to omit time served in the lower classification.
- D. An employee who fails any type of probationary period has no right of appeal.

X-2 TYPES OF PROBATIONARY PERIODS

A. Initial Appointment

All employees shall serve a probationary period following their initial appointment as a regular employee. Upon completion of the initial probationary period, the employee shall automatically achieve permanent status in County employment unless otherwise notified by the Sheriff.

B. Promotion

- 1. An employee who is promoted shall be required to serve a promotion probationary period.
- 2. The permanent status of an employee shall not be affected by serving a promotion probationary period.

- X-2
3. The employee shall be eligible for any other type of action except promotion during the probationary period.
 4. A promoted employee who fails a promotion probationary period shall be involuntarily demoted.

C. Demotion

1. An employee who voluntarily demotes to the classification of Deputy Sheriff or an employee who is involuntarily demoted may, at the discretion of the Sheriff, be required to serve a probationary period in the position to which demoted.
2. The permanent status of an employee shall not be affected by serving a demotion probationary period, except that an employee demoted for a disciplinary reason who fails a demotion probationary period shall be dismissed.
3. An employee demoted for a non-disciplinary reason who fails demotion probation shall be laid off from the present position to which demoted. In such circumstances the laid-off employee is not eligible for reinstatement to the position from which laid off.
4. A Corrections Officer who promotes and is appointed to serve as a Deputy Sheriff while on initial probation and who subsequently fails to successfully complete initial probation as a Deputy Sheriff shall be involuntarily demoted to Corrections Officer with the same salary previously held as a Corrections Officer, or may be terminated for failure to successfully complete initial probation. An employee demoted or terminated under this section shall have no right of appeal.

D. Reinstatement

1. Any laid off employee who is reinstated may, at the discretion of the Sheriff, be required to serve a probationary period. The reinstated employee shall otherwise regain rights of permanent status.
2. A reinstated employee who fails a reinstatement probationary period shall be included in recruitment processes in the same manner identified in Rule V-3.A for the duration of the reinstatement period.
3. A terminated employee reinstated by order of the Law Enforcement Merit System Council shall not be required to serve a probationary period.

X-2 E. Rehire

1. An employee who resigned in good standing and is rehired may, at the discretion of the Sheriff or designee, be required to serve a probationary period.
2. The rehired employee shall otherwise regain rights of permanent status.

F. Lateral Appointment

A Deputy Sheriff hired by lateral appointment shall be required to serve initial appointment probation.

G. Reappointment

1. A reappointed employee may, at the discretion of the Sheriff, be required to serve a probationary period in the position to which reappointed.
2. The permanent status of the employee shall not be affected by serving a reappointment probationary period, and the employee shall be eligible for any other type of action during the probationary period.
3. A reappointed employee who fails to successfully complete a reappointment probationary period may revert to a position with the same classification and to the same salary step previously held. If a vacant position of the previously held classification exists, the Sheriff or designee may place the employee in the vacant position and may require a probationary period. Failure to successfully complete this probation shall result in layoff. If no placement action is made, the employee shall be laid off from the classification to which he/she reverted. An employee reappointed under this section shall have no right to appeal.

XI-1 RESIGNATION

- A. Written notice of resignation shall be submitted to the Sheriff at least ten (10) business days prior to the effective date of the resignation.
- B. In accordance with ARS §23-1502, if an employee believes that intolerable working conditions exist that compel her/him to resign, in order to preserve the right to bring a constructive discharge claim against the County, the employee must notify the Sheriff in writing fifteen (15) calendar days prior to submitting her/his resignation.
 - 1. The Sheriff shall investigate the employee's working conditions and submit a written response to the employee within fifteen (15) calendar days after receiving the employee's written communication of alleged intolerable conditions.
 - 2. If the employee rejects the Sheriff's response, she/he may proceed with submitting her/his resignation. An employee who submits a resignation under these conditions need not file an appeal to proceed with a constructive discharge claim.
- C. A resignation may be withdrawn by an employee, with the written consent of the Sheriff, no later than ten (10) business days after the effective date of the resignation. If the request and/or approval occur after the effective date of the resignation, it shall be considered a break in service and the employee's new date of hire will be the first day he/she returns to County employment.

XI-2 DISMISSAL

A dismissal is the involuntary termination of employment for a disciplinary reason as provided in Rule XII.

XI-3 TERMINATION DURING INITIAL PROBATION

An employee may be terminated, without the right of appeal, at any time during initial probation. However, the terminated employee may file a grievance in accordance with Law Enforcement Merit System Rule XIII-3 if unlawful discrimination under County Personnel Policies, Law Enforcement Merit System Rules, or Administrative Procedures is alleged.

XI-4 LAYOFF

Layoff shall not be used in lieu of discipline.

- A. The Sheriff may lay off an employee covered by these Rules for inability to perform the essential functions of the employee's position with or without reasonable accommodation, or whenever it is necessary by reason of economy, lack of work, insufficient appropriations, change in departmental organization, or abolition of a position. The selection of the classification to be affected shall be made by the Sheriff.
- B. No employee with permanent status is to be separated by layoff while there are temporary, seasonal, emergency or initial probationary employees serving in the same classification for which such permanent status employee is qualified and available for reassignment.
- C. No permanent-status Deputy Sheriff shall be laid off while there are initial probationary Deputy Sheriffs.

XI-5 ORDER OF LAYOFF

- A. All permanent-status employees in any level of the classification of Deputy Sheriff shall have the order of layoff based upon full-time equivalent continuous service in any level of the classification of Deputy Sheriff. Employees shall be laid off in inverse order of seniority (the least senior Deputy Sheriff to be laid off first). For all purposes in this Rule, in the event of a tie in seniority, the following factors shall be considered by the Sheriff in this order until the tie is broken in determining seniority:
 - 1. Previous full time equivalent continuous service with Pima County Sheriff's Department.
 - 2. Previous continuous service with Pima County.
 - 3. Active Reserve Officer Status.
 - 4. Previous law enforcement experience/education in accordance with County policy.
- B. All permanent-status employees in classifications above the rank of Deputy Sheriff shall have the order of layoff determined by the Sheriff based on equitable consideration of factors such as performance appraisals, work record, conduct and seniority. Such employees may elect to exercise bump rights in lieu of layoff, or may elect pre-layoff reappointment in lieu of layoff.

XI-6 LAYOFF NOTIFICATION PROCEDURE

- A. The official Notice of Layoff shall specify the effective date of the layoff and shall be hand delivered, or sent certified with return receipt and first class mail, by the Sheriff, with a copy sent to Human Resources.
- B. The official Notice of Layoff shall be given with as much advance notice as possible, but in no case less than ten (10) business days prior to the effective date of the layoff.

XI-7 BUMP RIGHTS

- A. If an employee elects to exercise bump rights, he or she shall bump the employee in the next lower classification who has the least amount of seniority in the lower classification. Each employee who is bumped shall be laid off and shall have the same rights as a laid off employee.
- B. When an employee bumps into a lower classification, the employee's time served in the higher classification shall be added to the employee's previous time in the classification into which the employee bumps for the purposes of determining the employee's seniority in that classification.
- C. The salary of an employee who bumps into a lower classification shall be the lesser of:
 - 1. The employee's salary prior to bumping, or;
 - 2. The salary of the highest step in the classification into which the employee bumps.
- D. In the event of a tie in seniority for purposes of bump rights, the following factors shall be considered in this order until the tie is broken:
 - 1. Previous full time equivalent continuous service with Pima County Sheriff's Department.
 - 2. Previous continuous service with Pima County.
 - 3. Active Reserve Officer Status.
 - 4. Previous law enforcement experience/education in accordance with County policy.
- E. Employees who elect to bump to a lower classification shall be offered the former higher classification when an opening becomes available, prior to any other offer, including recall.

XI-8 PRE-LAYOFF REAPPOINTMENT

Pre-layoff reappointment shall follow the procedure outlined in the Pima County Merit System Rules.

XI-9 REINSTATEMENT

Reinstatement shall follow the procedures outlined in the Pima County Merit System Rules.

XI-10 TERMINATION FOR OTHER REASONS

- A. Employees on initial probation, temporary employees, or intermittent employees may be terminated at any time without cause and with no right of appeal.
- B. Any employee may be terminated pursuant to the Policy on Employment of Relatives, Personnel Policy 8-101.
- C. An employee may be terminated for failure to return to work from an approved leave of absence without pay.
- D. An employee shall be terminated pursuant to federal and/or state law for failure to establish or resolve employment authorization or identity verification.
- E. An employee who fails to submit a resignation notice in a timely manner as required by Personnel Policy 8-108 C. shall be terminated after the County has been notified that the employee has been awarded long term disability.

XII-1 GENERAL

- A. A disciplinary action is an action taken only for cause to correct inappropriate performance or other work-related behavior. The degree of disciplinary action shall relate to the gravity of the improper performance or conduct and the past performance and conduct of the employee. Progressive discipline, including counseling and other supervisory actions to improve conduct and performance, should be used whenever possible before taking disciplinary action.

Within six (6) months of taking disciplinary action, the supervisor shall conduct at least one (1) follow-up meeting with the employee to review progress on expectations set forth during the initial disciplinary discussion.

- B. Any of the following constitute cause for disciplinary actions:

1. Fraud in securing appointment or securing or attempting to secure workers' compensation benefits;
2. Incompetency;
3. Inefficiency;
4. Neglect of duty;
5. Insubordination or willful disobedience, including conduct which is unruly;
6. Dishonesty;
7. Unlawfully possessing, dispensing or being under the influence of a narcotic, barbiturate, marijuana, or a tranquilizing or hallucinogenic drug, except in accordance with medical authorization, or in the lawful performance of the employee's regular assigned duties;
8. Being under the influence of alcohol on duty except in the lawful performance of the employee's duties;
9. Absence without leave;
10. Commission or conviction of a felony or of a misdemeanor involving moral turpitude, either of which would affect the employee's suitability for continued employment;
11. Discourteous treatment of the public;
12. Engaging in prohibited political activity;
13. Misuse of County Government property

- XII – 1 B. 14. Misuse of County computers, County internet access, County email systems, or any other County electronic communication devices;
15. Seeking to obtain financial, sexual or political benefit from another employee with his/her consent induced by wrongful use of force or fear, or under color of official right;
16. Violation of the Rules of Conduct of Pima County and the Sheriff's Department Rules and Regulations;
17. Multiple wage garnishments;
18. Failure to maintain minimum qualifications for the position, failure to pass a required background check, or for failure to maintain licensing, certification or other requirements for the position currently held;
19. Any other improper conduct or performance which constitutes cause for disciplinary action.

XII-2 PRE-ACTION MEETINGS

- A. When it is intended that a permanent employee be suspended, demoted, dismissed, administratively suspended without pay, or involuntarily terminated under Rule XI-10 B. and C., a meeting shall be held prior to the intended action, at which time the affected employee shall be given oral or written notice of the charges against him/her, an explanation of the Department's evidence, and an opportunity to respond to the charges.
- B. The Sheriff or a designated Department Representative shall meet with the employee. The affected employee is entitled to be assisted by a person of the employee's choosing. The employee's assistant may not speak on behalf of the employee but may advise the employee throughout the duration of the meeting.
- C. This meeting should be held upon reasonable notice to the employee and at a time when the employee is reasonably able to attend.
- D. Any relevant information presented by the employee regarding the proposed action shall be considered, and the Department Representative shall thereafter make a recommendation to the Sheriff or designee to support, modify, or revoke the proposed action.
- E. If the Sheriff determines that it is in the best interest of the County, any permanent employee may be placed on Administrative Leave with Pay pursuant to Personnel Policy 8-107 A.

XII-3 TYPES OF DISCIPLINARY ACTIONS

A. Informal disciplinary action may take one or more of the following forms:

1. VERBAL COUNSELING

A supervisor may engage in verbal counseling with an employee at any time for problem resolution. If the verbal counseling is documented, the documentation shall be placed in the employee's department personnel file. Verbal counseling is neither grievable nor appealable.

2. LETTER OF COUNSELING

The Sheriff or designee may issue a Letter of Counseling to an employee at any time to correct or improve improper performance or conduct. The letter shall contain the specifics of the improper performance or conduct and shall be identified as a Letter of Counseling. A copy of the Letter of Counseling, with the employee's acknowledgment of receipt and any written response, shall be placed in the employee's department personnel file. A Letter of Counseling is neither grievable nor appealable.

Informal discipline documentation shall be removed from the employee's department personnel file twelve (12) months following the date of issuance. The department shall place the disciplinary document(s) in a separate file and retain them for the same period of time specified for the retention of department personnel files in state records retention requirements.

Should the employee accept a position in another department, informal disciplinary documents previously removed from the employee's department personnel file shall be transferred to the new department in a file separate from the employee's department personnel file.

Informal discipline that is more than twelve (12) months beyond issuance shall not be cited in, or considered a part of, further discipline.

B. Formal disciplinary action may be taken for serious incidents or repetitive improper performance or conduct, and may take one or more of the following forms:

1. LETTER OF REPRIMAND

The Sheriff or designee may issue a Letter of Reprimand to admonish an employee. The letter shall contain the specifics of the improper performance or conduct and shall be identified as a Letter of Reprimand. A copy of the Letter of Reprimand with the employee's acknowledgment of receipt shall be placed in both the departmental personnel file and the employee's official personnel file.

XII-3 B. 2. SUSPENSION

- a. The Sheriff or designee may suspend without pay a permanent employee for a disciplinary reason. Permanent employees may be suspended for any appropriate length of time.
- b. The Notice of Suspension without pay shall contain the specific reason(s) for the suspension in sufficient detail to inform the employee of the reason(s) for the action and shall advise the employee of the right to appeal the suspension to the Law Enforcement Merit System Council within ten (10) calendar days of presentation of notice.
- c. The Notice of Suspension must be delivered to the employee prior to or no later than the effective date of the suspension. The date of receipt must be documented. Copies of the Notice of Suspension shall be filed with the Clerk of the Board of Supervisors and Human Resources.

3. DEMOTION

- a. The Sheriff or designee may demote a permanent employee for a disciplinary reason as provided in Rule VIII, provided the employee meets the minimum qualifications of the demoted classification.
- b. The Notice of Demotion shall contain the specific reason(s) for the demotion in sufficient detail to inform the employee of the reason(s) for the action and shall advise the employee of the right to appeal the demotion to the Law Enforcement Merit System Council within ten (10) calendar days of presentation of notice.
- c. The Notice of Demotion must be delivered to the employee prior to or no later than the effective date of the demotion. The date of receipt must be documented. Copies of the Notice of Demotion shall be filed with the Clerk of the Board of Supervisors and Human Resources.

4. DISMISSAL

- a. The Sheriff may dismiss a permanent employee for a disciplinary reason.
- b. The Notice of Dismissal shall contain the specific reason(s) for the dismissal in sufficient detail to inform the employee of the reason(s) for the action and shall advise the employee of the right to appeal the dismissal to the Law Enforcement Merit System Council within ten (10) calendar days of presentation of notice.

- XII-3 B. c. The Notice of Dismissal must be delivered to the employee prior to or no later than the effective date of the dismissal. The date of receipt must be documented. Copies of the Notice of Dismissal shall be filed with the Clerk of the Board of Supervisors and Human Resources.

XII – 4 ADMINISTRATIVE SUSPENSION

Non-disciplinary Suspensions may be given to non-exempt employees without pay or with reduced pay by the Sheriff or designee under the following circumstances:

- A. In cases where an employee is charged with a felony or with another crime involving moral turpitude, or when it is deemed to be in the best interest of the County while an inquiry is being made into the conduct of the employee which may constitute cause for disciplinary action.
- B. An employee may be Administratively Suspended for up to thirty (30) business days. For extensions beyond thirty (30) business days, approval by the Law Enforcement Merit System Council is required.
- C. Subject to the provisions of subparagraph B., the employee may be suspended until the inquiry is completed and the employee is acquitted of the charges, the charges are dismissed, or the employee is otherwise exonerated.
- D. Notification shall be the same as for disciplinary Suspension.
- E. At the conclusion of the Suspension, the employee shall be returned to work with or without back pay, or advised of disciplinary or other action.
- F. The dismissal of charges or the acquittal of the employee shall not preclude further or subsequent disciplinary action.
- G. If the employee is exonerated after the investigation, and if the employee had been placed on Administrative Suspension without pay or with reduced pay, the employee shall be reinstated with all back pay and benefits.

XII – 5 SPECIAL OBSERVATION PERIOD

- A. An employee may be placed on a Special Observation Period for the purpose of closely monitoring the employee's performance or conduct during the specified period of time. The purpose of the Special Observation Period is to officially advise the employee that his/her conduct or performance shall be closely monitored for a specific period of time to ensure that the unacceptable performance or conduct does not continue. This need not be in conjunction with a disciplinary action.

- B. The Notice of the Special Observation Period shall be provided to the employee in writing, upon the effective date, and shall specify the conduct involved, the purpose of the observation period, and the length of the period. The Notice of Special Observation shall be separate from any accompanying disciplinary action documentation. A copy of the Notice of Special Observation shall be placed in the employee's department personnel file and filed with Human Resources for placement in the employee's official personnel file.

- C. At the end of the Special Observation Period, the employee's supervisor shall prepare a special performance evaluation report specific to the performance issue(s) monitored. A copy of the report shall be placed in the employee's department personnel file and filed with Human Resources.

- D. Unsuccessful completion of the Special Observation Period or unacceptable performance or conduct during the Special Observation Period may result in disciplinary action.

XII-6 EFFECTIVE DATE OF DISCIPLINARY ACTIONS

The demotion, suspension, or dismissal of an employee for a disciplinary reason shall be effective on the date stated in the notice even though the employee exercises the right of appeal.

XIII-1 GENERAL

- A. An informal resolution to a complaint or problem is the most appropriate manner of resolution. The Human Resources Department is available to assist employees/supervisors in this process.
- B. If an employee complaint or problem is not resolved by informal consideration, then the employee may formalize the consideration by pursuing one of the following three procedures:
 - 1. If the complaint alleges misinterpretation, misapplication, or unequal enforcement of County Personnel Policies, Law Enforcement Merit System Rules, or Administrative Procedures, or if an employee wishes to grieve a Letter of Reprimand, the Grievance Procedure shall be used.
 - 2. If the complaint alleges unlawful discrimination under County Personnel Policies, Law Enforcement Merit System Rules, or Administrative Procedures based on race, color, religion, national origin, age, disability, veteran status, genetic information, pregnancy, sex, gender identity, gender expression or sexual orientation, the Discrimination Grievance Procedure shall be used.
 - 3. If the complaint alleges improper suspension, demotion, dismissal, or termination as set forth in Law Enforcement Merit System Rule XI-10 B and C, the Appeal Procedure shall be used.

XIII-2 GRIEVANCES NOT ALLEGING DISCRIMINATION

- A. Any permanent employee may file a grievance alleging misinterpretation, misapplication, or unequal enforcement of Personnel Policies or Law Enforcement Merit System Rules, or Administrative Procedures, or a Letter of Reprimand.
- B. The grievance procedure may not be used for matters involving:
 - 1. Compensation issues and/or any related actions;
 - 2. Classification issues and/or any related actions;
 - 3. Performance evaluations;
 - 4. Informal Disciplinary Actions.

An employee may respond in writing to a performance appraisal or an informal disciplinary action; such response shall become part of the appropriate personnel record.

C. GRIEVANCE PROCEDURE

1. STEP I: The grievant states the grievance and the remedy requested on the Pima County Law Enforcement Employee Grievance Form and presents it to his/her Commander within ten (10) work days of the incident being grieved. If there is no Commander between the grievant's immediate supervisor and the Sheriff, the grievant may initiate the grievance procedure at Step II. The Commander shall discuss the grievance with the grievant, give consideration to the grievance and remedy requested and record his/her response on the grievance form. In such discussions the grievant may be assisted by a representative of his/her choosing. The Commander shall complete this action and return the grievance form to the grievant within ten (10) business days of receipt. The grievant may then agree or disagree with the Commander's action by so indicating in the space provided on the form. If the grievant agrees, the grievance form shall be incorporated into the departmental personnel record. If he/she disagrees, the grievant has the right to take the grievance to the Step II level within three (3) business days of receipt of the Commander's response.
2. STEP II: The grievance form is presented by the grievant to the Sheriff. The Sheriff shall investigate and give consideration to the grievance with remedy requested, and the recorded action of the Commander. Upon written request of the grievant, the Sheriff shall meet with the grievant to discuss the grievance within five (5) business days of receipt of the request. In such meetings, the grievant may be assisted by a representative of his/her choosing. The Sheriff shall then record his/her response on the grievance form. The Sheriff shall return the grievance form to the employee within five (5) business days of receipt of the grievance form from the grievant or from the date of the meeting. If the grievant agrees, the grievance form shall be incorporated into the departmental personnel record. If the grievant disagrees with the response of the Sheriff, he/she has the right to take the grievance to Step III within three (3) business days of receipt of the Sheriff's response.
3. STEP III: The grievance form is submitted by the grievant to the County Administrator. The County Administrator shall, upon receipt of the grievance, request Human Resources to facilitate the process. The County Administrator shall direct that the Sheriff and the grievant each select, within five (5) business days, an employee to serve as one (1) member of the Grievance Committee. If the grievant or the department does not select a member within five (5) business days of notification, the random computer selection process shall be used. The two (2) Grievance Committee members shall select an employee to be the third member within five (5)

business days. The Grievance Committee shall notify the County Administrator of its membership. In the event the two (2) Grievance Committee members fail to select a third member within five (5) business days, the third member shall be selected through the random computer selection process. No member of the Grievance Committee shall be:

- a. A direct or indirect supervisor of the grievant;
 - b. An employee of the County Administrator's Office;
 - c. An employee of the Human Resources Department;
 - d. An employee of the County Attorney's Office;
 - e. A relative of the grievant;
 - f. An employee who has a definite personal and/or professional conflict of interest with the grievant or the department as determined by the County Administrator; or
 - g. An employee who has received formal disciplinary action within the past twelve (12) months.
4. Either party may be represented by a representative of his/her choice. However, the parties must be present at any meeting between Committee members and their respective representatives.

The Grievance Committee shall meet within ten (10) business days of formation of the committee. It shall investigate the grievance and submit a written report and recommendation to the County Administrator within thirty (30) business days following the first meeting of the Grievance Committee.

The County Administrator will issue a final decision within thirty (30) calendar days of receipt of the grievance committee report, which will be distributed to both the grievant and the Sheriff. Should the County Administrator miss the time frame for a decision, the majority opinion of the Grievance Committee will stand. If the time frame for the County Administrator's response is missed and there is not a majority recommendation of the Grievance Committee to sustain the grievance, then the grievance is denied.

- D. All time requirements for filing must be met unless exceptions are granted by the County Administrator. If the Commander or Sheriff fails to meet the time requirements, the grievant has the right to take the grievance to the next step. If the grievant fails to meet the time requirements, the grievance shall be considered withdrawn.

- E. Notification of the final determination by the County Administrator shall be addressed to the grievant with a copy to the Sheriff and the Director of Human Resources. If the grievant or the Sheriff finds fault with the contents of the Grievance Committee's Report, he/she is required to report the objection immediately to the County Administrator for the appropriate action. If the County Administrator determines that follow-up action is necessary, a Compliance with Final Determination Form will be sent to the Sheriff listing the actions to be taken. The action statements with follow-up activities regarding the decision must be completed in all cases by the Sheriff and submitted to Human Resources within thirty (30) calendar days of receipt of the final determination of the grievance.
- F. All Grievance Committee reports will be produced out of the Department of Human Resources for purposes of maintaining confidentiality and record retention. All materials pertaining to the grievance shall be filed in the official Human Resources file with a copy of the grievance placed in the employee's official personnel file when filed based on a Letter of Reprimand.

XIII-3 GRIEVANCE ALLEGING DISCRIMINATION/HARASSMENT

Any employee may file a grievance alleging unlawful discrimination under County Personnel Policies, Law Enforcement Merit System Rules, or Administrative Procedures based on race, color, religion, national origin, age, disability, veteran status, genetic information, pregnancy, sex, gender identity, gender expression or sexual orientation.

A. DISCRIMINATION GRIEVANCE PROCEDURE

1. STEP I: The grievant states the grievance and the remedy requested on the Pima County Law Enforcement Discrimination Grievance Form and presents it to the Sheriff within ten (10) business days of the incident being grieved. However, under extenuating circumstances, the County Administrator may grant an extension to the ten (10) business day filing period which shall not exceed thirty (30) business days. The grievance must state in detail the facts relating to the charges of unlawful discrimination under County Personnel Policies, Law Enforcement Merit System Rules, or Administrative Procedures. The grievant may be assisted by a representative of his/her choosing. However, the grievant must be present during any meeting between the Sheriff and the grievant's representative. The Sheriff shall investigate the circumstances involved in the grievance and respond to the grievant within ten (10) business days of receipt of the grievance form. The grievant may then agree or disagree with the Sheriff's response. If the grievant agrees, the grievance form shall be incorporated into the departmental personnel record. If the grievant disagrees, he/she has the right to take the grievance to Step II.

2. STEP II: If the grievant elects to pursue the grievance to Step II, it must be filed in writing with the County Administrator within five (5) business days after receipt of the Sheriff's response. The County Administrator shall request the Human Resources Department to investigate the incident and attempt to resolve the grievance. The County Administrator shall promulgate rules of procedure for use in Step II.
3. Within thirty (30) business days of receipt of the grievance by the County Administrator, Human Resources should report its findings to the County Administrator. Exceptions to this thirty (30) business days day limitation may be granted by the County Administrator in circumstances where Human Resources demonstrates it is in the best interest of both the County and the grievant to do so. The County Administrator shall issue a final determination within thirty (30) calendar days of receipt of the Human Resources report.

XIII-4 APPEALS

A. MATTERS WHICH MAY BE APPEALED

1. A permanent employee, except as otherwise provided in these Rules, may appeal a dismissal, demotion, suspension or termination as set forth in Law Enforcement Merit System Rule XI-10 B and C within ten (10) calendar days of presentation of the notice. Respondent may serve an amended notice of suspension, demotion, or dismissal prior to the beginning of the Appeal Hearing.
2. Matters not specifically stated in this Rule cannot be appealed. Employees on initial probation or employees who are exempt from the Law Enforcement Merit System as provided in the Pima County Law Enforcement Merit System Resolution may not appeal.

XIII-4 B. APPEAL PROCEDURE

1. FILING THE APPEAL

Appeals to the Law Enforcement Merit System Council must be filed with Human Resources in writing within ten (10) calendar days of presentation of notice of demotion, suspension, dismissal or termination. In the absence of good cause, failure to file a timely appeal is a jurisdictional defect. The appeal shall state in detail the facts upon which it is based, the identity of all persons or departments concerned in the matter, and the remedy requested. The Sheriff shall be considered the Respondent. Human Resources shall serve a copy of the appeal on the Respondent.

2. ANSWER TO APPEAL

No answer to the appeal need be filed by the Respondent. If an answer is filed prior to the hearing, a copy shall be sent by Human Resources to the Appellant.

3. HEARING OFFICERS

a. Appeals may be heard by the Council or be assigned by the Council or its Chair to a Council member who shall be the Hearing Officer. When an appeal is so assigned, the Hearing Officer shall be the authorized representative of the Council and is fully empowered to grant or refuse extensions of time, to set the proceedings for hearings, to conduct the hearing, and to take any action in connection with the proceedings which the Council itself is authorized to take by Law or by these Rules other than making the final findings and decisions. No assignment of an appeal to a Hearing Officer shall preclude the Council or its Chair from withdrawing it and conducting the hearing itself or from reassigning an appeal to another Hearing Officer. The Hearing Officer shall prepare and submit a Hearing Officer's Report on a form to be approved by the Council.

The report shall be submitted to Human Resources for transmittal to the Council not less than fifteen (15) calendar days prior to the Council meeting during which action on the appeal is to be taken. Copies of the Hearing Officer's report shall, upon receipt by the Director of Human Resources, be mailed to all members of the Council and to the employee and the Sheriff, and their respective representatives. The employee and the Sheriff, and their respective representatives, may submit written objections to the Hearing Officer's Report not less than five (5) business days prior to the regular Council Meeting. The Council may, at its discretion, take further testimony or hear arguments at the regular Council meeting.

b. Appeals heard by the Council shall be held during an open meeting for the purposes of conducting the entire hearing and making a decision on the appeal.

4. TIME FOR HEARING

Within twenty (20) calendar days from receipt by the Council of an appeal, a date shall be set by the Hearing Officer (if a Hearing Officer has been appointed) or by Council or the Human Resources

department with the approval of the Council chair or his or her designee for the commencement of the appeal hearing.

5. NOTICE OF HEARING; PRE-HEARING STATEMENT

- a. Written notice of the time, date, place of hearing, and the name of the Hearing Officer (if appropriate), shall be delivered or mailed by Human Resources to the Appellant and the Respondent at least fourteen (14) calendar days before the date of such hearing. If this notice is delivered personally, written acknowledgment of time of receipt by the employee shall be obtained or verified.
- b. In any appeal when the Appellant is represented by any person (whether an attorney or not), the Appellant's Representative and the Deputy County Attorney assigned to the hearing shall attempt to meet not less than two (2) business days prior to the time assigned for the hearing, to jointly prepare for submission to the Council a pre-hearing statement in which the following shall be stated:
 - i. Any stipulated agreements between the parties;
 - ii. A list of the witnesses who may be called by each party;
 - iii. A list of the Exhibits that may be offered by each party and a statement that all of such Exhibits have been or will be disclosed and made available to the other party and his/her representative;
 - iv. A statement that the parties have discussed possible means of settling the dispute. The Appellant and the Sheriff (or designee who took the action against Appellant) may attend the pre-hearing meeting, but are not required to do so. The pre-hearing statement shall be submitted to the Council at or before the time of the appeal hearing.

6. CONTINUANCE OF HEARING

- a. Either Respondent or Appellant may request that a hearing set pursuant to these Rules be continued. Such a request must be submitted to the Hearing Officer/Council Members, in writing at the earliest practicable time but in no event less than twenty-four (24) hours prior to the time set for the hearing. Copies must be sent to Human Resources and to all concerned parties.
- b. Failure to request a continuance in conformance with these Rules and subsequent failure by either party to appear at the time and place set for hearing may result in a recommendation and/or decision adverse to the party who failed to appear upon motion of either party, or on motion of the Hearing Officer/Council Members.
- c. A hearing may be continued by any Council Member assigned to sit as a Hearing Officer or, if the hearing is to be conducted by the Council, by the Chair or designee.

C. NATURE OF HEARING

1. Each hearing by the Council shall be held pursuant to ARS §38-431; and each hearing by a Hearing Officer shall be closed unless the Appellant requests an open hearing. Any parties may represent themselves, be represented by legal counsel, or anyone of their choosing (except as prohibited by law). The hearing shall be informal and technical rules of evidence and “Court Procedure” shall not apply to the proceedings except that irrelevant, immaterial, or unduly repetitious evidence, or evidence protected by the rules of privilege recognized by law, may be excluded. All testimony at the hearings shall be recorded manually or by mechanical or electronic device. The Council shall pay all charges incurred in connection with the presence of a Court Reporter or the utilization of mechanical or electronic devices, excluding, however, the costs of the preparation of all or any part of any transcript. The cost of a copy or copies of any such transcript shall be paid by the party or parties ordering the same.
2. On any appeal hearing, in the event that there is a dispute as to the jurisdiction of the Council to hear the case, the Hearing Officer/Council Members shall first take evidence with respect to the jurisdictional question. If the Hearing Officer/Council Members conclude that the Council has jurisdiction to hear the appeal, then he/she/they shall proceed to take evidence on all remaining issues and to make a report as herein required. In the event that the

Hearing Officer/Council Members conclude that the Council is without jurisdiction, then he/she/they shall terminate the hearing and take no further evidence. A report shall be made to the Council as herein required, and if it is thereafter determined that the Council had jurisdiction to entertain the appeal, then the Hearing Officer/Council Members or any other Hearing Officer of the Council shall reconvene the hearing to hear the remainder of the evidence.

D. POWER OF SUBPOENA

The Council or any member thereof, may request the Chair of the Board of Supervisors to issue subpoenas to compel attendance of any person and the production of any books, papers, or any other evidence relating to any investigation or hearing authorized by these Rules, in accordance with the power of the Board pursuant to ARS §11-218.

Pursuant to ARS §12-2212 any member of the Council may issue subpoenas to compel the attendance of witnesses and/or the production of documentary evidence. In the event that any person fails to appear, and/or produce a document in response to the subpoena, any member of the Council may, by affidavit setting forth the facts, apply to the Pima County Superior Court for relief as a result of the failure.

E. EXCLUSION OF WITNESSES

The Hearing Officer/Council Members either upon the motion of either party may exclude from the hearing room any witnesses not at the time under examination. The Appellant, Respondent, their attorneys, or other representatives, shall not be excluded.

F. WITNESS FEES

Witnesses, other than employees, who are subpoenaed to attend a hearing or investigation are entitled to the same fee as is allowed witnesses in civil cases of the State of Arizona.

If a witness is subpoenaed by any Hearing Officer/Council Member on his own motion, fees and mileage shall be paid from funds of the Council upon presentation of a duly executed claim. If a witness is subpoenaed upon request of the Appellant or Respondent, the fees and mileage shall be paid by the party requesting the witness. Reimbursement to County employees subpoenaed as witnesses shall be limited to payment of mileage, if appropriate, by the party requesting the witness.

G. DEPOSITIONS; DISCOVERY

1. If a witness does not reside within Pima County or within one hundred (100) miles of the place where the hearing or investigation is to be held, is out of state, or is too infirm to attend the hearing or investigation, any party, at his own expense, may cause a deposition to be taken.

If the presence of a witness cannot be procured at the time of the hearing or investigation, the deposition may be used in evidence by either party or the Council.

2. DISCOVERY BY APPELLANT:

Upon written request to the Respondent, made not less than seven (7) business days before the hearing, with a copy of the request to the Council, any Appellant in any Appeal before the Council shall be entitled to receive, subject to payment of reasonable expenses, not less than four (4) business days before the hearing, copies of the following documents:

- a. The Appellant's entire personnel file, including any personnel file or files retained by offices other than Human Resources;
- b. All memoranda, writings, other documents or printed or recorded materials prepared by or for the Respondent as a result of the events underlying the disciplinary action which is the subject of the Appeal except those which are protected by privilege. In the event any such memoranda, writings, or other documents are claimed by the Respondent to be privileged, the Respondent shall identify each such memorandum, writing, or other document, and inform the Council and the Appellant;
- c. Any and all documents which the Respondent intends to utilize as an exhibit at the hearing, subject to the rules of relevance and privilege set forth above.

3. DISCOVERY BY RESPONDENT:

Upon written request to the Appellant, made not less than seven (7) business days before the hearing, with a copy of the request to the Council, any Respondent in any Appeal before the Council shall be entitled to receive, subject to payment of reasonable costs, not less than four (4) business days before the hearing, copies of the following documents:

- a. All memoranda, writings, or other documents or printed or recorded material prepared by or for the Appellant as a result of the events underlying the disciplinary action and pending Appeal, except those which are protected by privilege. In the event any such memoranda, writings, or other documents are claimed by the Appellant to be privileged, the Appellant shall identify each such memorandum, writing, or other document, and inform the Council and the Respondent.
 - b. Any and all documents which the Appellant intends to utilize as exhibits at the hearing, subject to the rules of relevance and privilege set forth above.
4. If either the Respondent or Appellant offers as evidence any document not previously provided to the other party, the Council may, in the reasonable exercise of its discretion, admit the document under such conditions as the Council may impose, postpone the hearing to give the other party an opportunity to review the document and respond, or reject the offered document.

H. WITHDRAWAL OF AN APPEAL

The Appellant may withdraw the appeal at any time prior to the decision by the Council by a written notice of the withdrawal sent to Human Resources or by a statement of withdrawal at the hearing.

I. DECISION BY COUNCIL

If, after the hearing, a majority of the Council determines that there was just cause for the action imposed, then the order shall be affirmed. If the Council determines that there was not just cause for the action taken either: (1) because some or all of the charges were not proven to the satisfaction of the Council; and/or (2) whether or not all of the charges were proven, the action imposed was, in the sole discretion of the Council, too severe a penalty for the conduct proven, then the order shall be revoked or modified. The Council shall have the power to direct appropriate remedial action and shall do so after taking into consideration just and equitable relief to the employee in the best interest of the County and the public.

J. DEDUCTIONS FROM BACK PAY AWARD

If an employee has been dismissed or suspended without pay, and, upon appeal, the Council revokes or modifies the disciplinary order, and the employee is ordered reinstated with back pay, any interim earnings or amounts actually earned or earnable with reasonable diligence, including

unemployment compensation, shall be deducted from the back pay award. A calculation of the back pay award, reduced by the amounts determined herein, shall be determined at a subsequent meeting, after appropriate hearing, as needed, before final review of the appeal.

K. ATTORNEY FEES

Pursuant to the provisions of ARS §38-1003 and §38-1004, if the officer was suspended for more than sixteen (16) hours, demoted or dismissed, and is exonerated, the Council may award, in whole or in part, the reasonable costs and attorney fees that the employee incurred in connection with the appeal. The award of attorney fees by the Council shall not exceed ten thousand dollars.

Calculation of attorney fees will be based upon criteria cited in Schweiger v. China Doll Restaurant, Inc. 138 Ariz. 183, 673 P.2d 927 (Ct. App. 1983). In no case will the Council award attorney fees in excess of the actual work generated or a maximum award of \$10,000.00. The affidavit submitted in connection with an application for fees must indicate the agreed upon hourly billing rate by counsel and the appellant for services performed in connection with the appeal. It also must identify the legal service performed, the names of any and all attorneys who provided legal services and the date in which the services were performed. The fee application must be in sufficient detail for the Council to determine the reasonableness of the time incurred.

An award of attorney fees does not apply if either of the following applies:

- a) The order of the Appointing Authority was not for disciplinary purposes but was for administrative purposes such as a reduction in force.
- b) The disciplinary action was related to off-duty activities unrelated to the required duties of the law enforcement officer.

If the Appointing Authority appeals the decision to the court, the award of any costs or attorney fees to an officer shall be stayed pending the conclusion of the appeal. If the Appointing Authority's decision is upheld on appeal, the award of costs or attorney fees in favor of the officer shall be reversed.

L. COMPLIANCE OF APPOINTING AUTHORITY

Within ten (10) business days of a decision by the Council revoking or modifying any order of disciplinary action, in the event that back pay has been awarded and a hearing conducted pursuant to XIII-4 (I), the Sheriff shall take such measures as are necessary to comply with the remedial action directed by the Council and shall render a report of the measures taken to Human Resources.

XIV-1 GENERAL

County employees shall not:

- A. Engage in political activity while on duty;
- B. Use any official authority or influence in any way to affect the result of any political election or nomination;
- C. Coerce any County employee to do anything in support of or against any party, committee, organization, agency or person for a political purpose;
- D. Discriminate in favor of or against any County employee or applicant because of such employee's or applicant's political contributions or activities.

XV-1 PURPOSE

- A. The Director of Human Resources shall develop a performance management process, to include performance plans and performance appraisals, to be used for all employees of Pima County. All employees shall be evaluated in accordance with this procedure.
- B. The Employee Performance Appraisal may be utilized as a means to determine merit increases, and for activities such as determining promotions, demotions, dismissals, order of layoff, reemployment, reinstatement, lateral reappointment and training or staff development needs.
- C. Employee Performance Appraisals are to be used as a tool to evaluate the level of performance of an employee.

XVI-1 PURPOSE

Upon the recommendation of the Sheriff, the Law Enforcement Merit System Council shall recommend to the Board of Supervisors schedules of salary and other compensation payable for each Officer classification.