

**PIMA COUNTY MERIT SYSTEM
AND
LAW ENFORCEMENT MERIT SYSTEM**

APPEAL HEARING GUIDELINES

Merit System Rule 14
Law Enforcement Merit System Rule XIII

I. INTRODUCTION

Under Arizona Law (Arizona Revised Statutes/A.R.S.) and the Pima County Merit System Rules/Law Enforcement Merit System Rules, County employees holding permanent status in the classified service may be dismissed, demoted, reduced in pay, or suspended only by written order specifically stating the reasons for the action. Employees may appeal these actions to the Merit System Commission/Law Enforcement Merit System Council who, after a hearing, may affirm, modify, or revoke the order.

This guide is designed to assist the employee in the appeal process and contains an overview of the appeal process, a glossary of terms, and a list of important dates. This guide, coupled with Merit System Rule 14 or Law Enforcement Merit System Rule XIII, will provide the employee with an overall understanding of the appeal process. The goal of Human Resources is to ensure a fair and equitable process. For additional information or further assistance, please contact Human Resources/Employment Rights, at 724-8028. (Fax # 222-1487)

The employee shall at all times keep Human Resources/Employment Rights apprised of his or her current mailing address and all home, cell, etc. telephone numbers.

Sign: _____

Date: _____

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I. INTRODUCTION

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This guide is designed to assist the employee in the appeal process and contains an overview of the Appeal Process, a Glossary of Terms, and a List of Important Dates. This guide, coupled with Merit System Rule 14 or Law Enforcement Merit System Rule XIII, will provide the employee with an overall understanding of the appeal process. The goal of Human Resources is to ensure a fair and equitable process. For additional information or further assistance, please contact Human Resources/Employment Rights, at 520-724-8028. (fax 520-724-8253)

The employee shall at all times keep Human Resources/Employment Rights apprised of his or her current mailing address and all home, cell, etc. telephone numbers.

II. PROCESS OVERVIEW

- A. Under the Merit System Rules (MSR) permanent employees may appeal only the following actions: dismissal, demotion, reduction in pay, suspension or termination as set forth in MSR 11.5 B. – E. Under the Law Enforcement Merit System Rules (LEMSR) permanent employees may appeal only the following actions: dismissal, demotion, suspension or termination as set forth in LEMSR XI-10 A. – D. Matters which may be appealed are identified in Merit System Rule 14.1 and Law Enforcement Merit System Rule XIII-4 A.1. Matters not specifically stated in these Rules cannot be appealed.
- B. Hearings before the Commission/Council are informal and technical Rules of Evidence and Court Procedure do not apply. The Commission/Council may exclude irrelevant, immaterial, incompetent, or unduly repetitious evidence or evidence protected by the Rules of Privilege recognized by law. The purpose of an appeal hearing is to allow the Commission/Council to take the testimony of witnesses and documentary evidence presented by each party and make a decision in a manner which is fair and impartial to all concerned.

- C. The Commission/Council is authorized by the Merit System Rules/Law Enforcement Merit System Rules to hear evidence presented by all parties to the appeal, provide for the issuance of subpoenas for the attendance of witnesses, order the production of documentary evidence, administer oaths, and cause depositions to be taken. Legal counsel is assigned to the Commission/Council to provide advice on these matters.
- D. At the conclusion of testimony in an appeal heard by a Hearing Officer, the Officer will write a report for distribution by Human Resources/Employment Rights to all parties and the Commission/Council. The parties may submit a written response (not post-hearing evidence) five (5) business days prior to the Commission/Council meeting at which it will be heard. At meeting, the Commission/Council may adopt, reject, or modify the recommendations or require or permit further evidentiary proceedings.

When an appeal is heard by a quorum of the Commission/Council, a decision to affirm, modify or revoke the action will be made upon conclusion of the hearing. See MSR 14.4/LEMSR XIII- 4.I.

- E. Both parties shall receive written notice of the decision. The decision of the Commission/Council is final and subject to judicial review by the Superior Court as provided in A.R.S. § 12-904 (Merit System Commission) or A.R.S. § 38-1004 (Law Enforcement Merit System Council).

III. PROCEDURES/GENERAL REQUIREMENTS

- A. (Merit System Rules) Within twenty (20) calendar days after receiving the appeal, the Commission shall set a date for a hearing of the appeal.

(Law Enforcement Merit System Rules) Every hearing on an appeal shall commence within twenty (20) calendar days from receipt by the Council, unless the time is extended by the Council or the Hearing Officer, or unless the Council or Hearing Officer is unable to hear it within the twenty (20) calendar days, or for other good cause.

- B. Ordinarily, the Respondent/Department is represented by a Deputy County Attorney.
- C. The Appellant/Employee may be represented by herself/himself, by a privately retained attorney, or by an individual other than an attorney, if said individual does not charge for such representation (Supreme Court Rule 31(d)2).
- D. The Respondent and Appellant shall each prepare a list of exhibits and witnesses which shall be received by the Commission/Council, the Appellant and Respondent, no later than two (2) business days prior to the date of the appeal hearing. Exhibits for the Respondent/Department are designated numerically; exhibits for the Appellant are designated alphabetically.

(Merit System Rules) No later than two (2) business days prior to the date of the appeal hearing, a pre-hearing conference shall be held to identify witnesses and exhibits, agree to admissibility of exhibits, to stipulate to those facts not in dispute, and to discuss possible settlement.

(Law Enforcement Merit System Rules) 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) working 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: Any stipulated agreements between parties; A list of the witnesses who may be called by each party; A list of the exhibits that may be offered by each party and a statement that all such exhibits have been or will be disclosed and made available to the other party and his/her representative; A statement the parties have discussed possible means of settling the dispute.

- E. It is the responsibility of the Commission/Council to record all testimony. All witnesses should speak clearly and all documents should be properly labeled and identified verbally in the event the record must be transcribed.
- F. Upon the request of either the Appellant or the Respondent, the Commission/Council may exclude from the hearing room any witness not at the time under examination. Parties to the proceedings and their attorneys or representatives shall not be excluded.

IV. ASSIGNMENT OF HEARINGS

In accordance with the Merit System Rules/Law Enforcement Merit System Rules, appeals may be heard by either a Hearing Officer (single member of the Commission/Council) or a quorum of the Commission/Council. Three or more members of the five-member Merit System Commission/Law Enforcement Merit System Council constitute a quorum. Subject to a decision by a quorum of the Commission/Council, the Chair of the Commission/Council determines whether the appeal will be heard by a Hearing Officer (and assigns the hearing to a Hearing Officer), or a quorum of the Commission/Council. The Commission/Council shall be notified of the designation of the Hearing Officer or quorum.

A. Hearing Officer

1. When an appeal is assigned to a Hearing Officer (single member of the Commission/ Council), the Hearing Officer is the authorized representative of the Commission/Council and is fully empowered to grant or deny extensions of time, to set the proceedings for the hearing, and to conduct the hearing. Upon the request of a Commission/Council Member or at any appropriate time, the Chair may reassign the appeal to another Hearing Officer or schedule a hearing before the Commission/Council.
2. Hearings conducted by a Hearing Officer will be tape recorded. A court reporter will not be present. Audio tapes will be available for review and copies will be made by Human Resources/Employment Rights upon request of a member of the Commission/Council, the Appellant, the Respondent, and their respective representatives. Parties requesting copies of audio tapes will be required to furnish blank tapes to Human Resources.

3. When the appeal hearing has been conducted by a Hearing Officer and all parties have had an opportunity to present their testimony and documentary evidence, the Hearing Officer should adjourn the hearing by stating he/she will take the matter under advisement, examine the record and documentary evidence, and prepare and submit a Hearing Officer's report to Human Resources/Employment Rights no later than thirty (30) calendar days after the completion of the hearing. The Hearing Officer's report shall contain the name and official classification title of the Appellant, the name of the Appellant's representative, and the type of action appealed, the County department and its representative, the name of the Hearing Officer, and the time and date(s) of the hearing(s). The report should also contain the following:
 - a. A concise statement of the charges against the Appellant, the action taken by the Appointing Authority, and the jurisdiction of the Merit System Commission (pursuant to the terms of A.R.S. § 11-351 through § 11-356) or the Law Enforcement Merit System Council (pursuant to A.R.S. § 38-1001 *et. seq.*);
 - b. A summary of the evidence, including the names of the witnesses, a summary of the testimony of each witness, and a summary of the content of any significant documentary evidence;
 - c. "Findings of fact" as they relate to each relevant charge. The findings of fact should reflect the evidence submitted. In many cases, the parties may submit evidence which is, or seems to be, contradictory. Findings of fact should be set forth as to each relevant fact which pertains to any of the charges made and, where there is conflicting evidence, the Hearing Officer's conclusions as to said facts.
 - d. Conclusions and recommendations of the Hearing Officer as to a determination of whether there was just cause for the action taken and as to the ultimate disposition of the appeal. In this final section of the Hearing Officer's report, the charges should be addressed in terms of whether or not the Respondent/Department has proven one or more of the charges set forth in the written notice, the action taken is warranted under circumstances, the action taken is within the range of permissible actions and is not too severe for the circumstances proven. The end of the Hearing Officer's report should contain a recommendation. Possible examples include:
 1. " The appeal be dismissed for the reason there was just cause for the action taken."
 2. " The appeal be sustained and the appellant be reinstated with full back pay for the reason there was not just cause for the action taken since (state reasons why there was not just cause, referring to the Findings of Fact) and the action be reversed/modified as follows: (state recommendation for new action or for other final disposition of the appeal.)"

3. "The appeal be sustained and the (Appellant) be reinstated to his/her position of employment with Pima County with full back pay except for a suspension without pay for a period of (# of days, weeks, months or to a date certain) for the reason that, while there was evidence the employee engaged in improper conduct, and there was evidence to support the imposition of some action, the Appointing Authority failed to establish there was just cause for the action imposed."

[In the case of an appeal of actions other than dismissal or where a different form of action will be imposed (such as demotion), then the recommendation should be modified accordingly.]

- e. Five (5) business days prior to the Commission/Council open meeting, Human Resources/Employment Rights will mail copies of the report to all members of the Commission/Council, the Appellant, the Respondent, and their respective representatives who may submit a written response to the report (not post-hearing evidence). The Commission/Council will consider the Hearing Officer's findings and make its decision on the appeal at a hearing in an open meeting. The open meeting on the appeal shall be held not less than fifteen (15) calendar days from receipt of the Hearing Officer's report.
- f. The Commission/Council may adopt the Hearing Officer's report in its entirety, or modify it, or may itself decide the case upon the record, with or without taking additional evidence. If, after the hearing, the Commission/Council determines there was not just cause for the action taken, the action shall be revoked or modified. Otherwise, the action shall be affirmed.
- g. On any appeal hearing conducted by a Hearing Officer, in the event there is a dispute as to jurisdiction to hear the appeal, the Hearing Officer may request Human Resources/Employment Rights staff to investigate the jurisdictional facts and report same, without recommendation, to the Hearing Officer. The Hearing Officer may also take testimony on the subject of jurisdiction. If the Hearing Officer determines the Commission/Council has jurisdiction to hear the appeal, then s/he will either proceed to take evidence on all remaining issues and make a report, or set a hearing at a subsequent date for the taking of additional evidence, after which a report will be made. In the event the Hearing Officer determines the Commission/Council is without jurisdiction, he/she will terminate the hearing and take no further evidence. A report will be made to the Commission/Council for a final determination on jurisdiction. If the Commission/Council determines it has jurisdiction to hear the appeal, then the Hearing Officer or another Hearing Officer or the Commission/Council will reconvene the hearing to hear the remainder of the appeal.

B. Quorum of the Commission/Council

1. Hearings conducted by a quorum of the Commission/Council will be tape recorded and/or have a court reporter present. Audio tapes, when the hearings are tape recorded, will be available for review and copies will be made by Human Resources/Employment Rights upon request of a member of the Commission/Council, the Appellant, the Respondent, or their respective representatives. Transcripts can be obtained upon request to the court reporter and the cost for the transcript will be charged to the requesting party.
2. When appeal hearings are conducted by a quorum of the Commission/Council at a scheduled meeting where all parties are given the opportunity to present testimony and documentary evidence, the Commission/Council shall examine the record and documentary evidence and vote in public on whether to affirm, modify, or revoke the action imposed by the Appointing Authority. It is possible depending on the hour the Commission/Council may recess and reconvene for deliberation and vote at a later time.
3. On any appeal hearing conducted by a quorum of the Commission/Council, in the event there is a dispute as to the jurisdiction of the Commission/Council to hear the appeal, the Commission/Council will first take evidence with respect to jurisdiction and make a final determination on the jurisdiction issue. If the Commission/Council determines it has jurisdiction to hear the appeal, then it may either proceed to take evidence on all remaining issues or set a hearing on the remaining issues for a subsequent date pursuant to the Arizona Open Meeting Law.
4. A decision by majority of a quorum shall constitute a decision by the Commission/Council.

V. PRELIMINARY MATTERS

- A. When the parties, representatives, and court reporter have appeared at the appointed time and place for the hearing, the following or similar statement and other such information as the Chair or Commission/Council deems appropriate, shall be read into the record:

This is the time and place set for hearing the appeal of (Employee's name) versus (Respondent/Department). The record will indicate the presence of the employee (and his/her representative) and the Respondent/Department (and its attorney).

Under A.R.S. § 11-356 or A.R.S. § 38-1004, this hearing will be informal with the technical Rules of Evidence not applicable except the Rule of Privilege as recognized by law. If, however, any party wishes to make legal objection to the evidence, it will be noted by the Commission/Council or Hearing Officer and either ruled on at the hearing or due weight given when the Commission/Council or Hearing Officer is making the determination of facts.

B. If the Appellant denies receipt of the specific charges in writing, the Commission/Council or Hearing Officer will ask the Respondent to submit evidence there was compliance with the Merit System Rules/Law Enforcement Merit System Rules which provide the employees will be given written notice stating specific reasons for the action. If there is insufficient proof of the written notice, the appeal will be sustained, and the action revoked.

C. All witnesses stand before the Commission/Council or Hearing Officer, state their names, raise their rights hands and are sworn as follows:

“Do you (and each of you) solemnly swear (or affirm) the testimony which you are about to give will be the truth, the whole truth, and nothing but the truth?”

D. If either party invokes the Rule of Exclusion of Witnesses, the witnesses who are sworn will be told substantially the following:

“The Rule of Exclusion of Witnesses is in effect and will be observed by all witnesses until the hearing is over. This means all witnesses are to remain outside the hearing room during the hearing except when called in to give testimony. Do not discuss the case or your testimony with anyone other than the attorney or other representative of the parties until after the hearing has been completed. You should also avoid being present when others may discuss the case. You may discuss your testimony with any of the attorneys or other representatives, so long as no other witness is present. Do you understand this rule?”

VI. EVIDENTIARY PROCEEDINGS

A. Each party may make a brief opening statement outlining its case and describing evidence. This statement should not contain argument or testimony. It will not be considered as evidence in the appeal.

After opening statements, Respondent/Department, who has the burden of proof, presents evidence to support its position. The Appellant may then put forth evidence answering these allegations. Either party may cross-examine witnesses. The Respondent may present rebuttal evidence; rebuttal is not to be used merely to repeat testimony already in the record.

B. The Commission/Council or Hearing Officer is not required to permit re-cross examination or surrebuttal absent good cause.

C. Exhibits may be used for demonstrative purposes and/or admitted into evidence and made part of the record. A party requesting an exhibit be admitted into evidence must first bring eight (8) copies of the exhibit (five (5) for the Commission/Council, the record, and legal counsel and one for the opposing party and the witness). When the hearing is conducted by a quorum of the Commission/Council and five (5) copies. When the hearing is conducted by a Hearing Officer (two (2) for the Hearing Officer and the

- record and one for each party and a witness). The exhibit must be identified through a witness. The opposing party is given an opportunity to review the exhibit and make any appropriate objection. The requesting party moves for admission of the exhibit. The Commission/Council or Hearing Officer may ask questions about the exhibit. The exhibit is then either admitted or not. Any item offered with evidence by either party becomes part of the official record of the Commission/Council in the hearing whether admitted or not.
- D. At the conclusion of evidence, both parties will have the opportunity to present a closing argument summarizing the evidence and their position on the case.
 - E. It is proper for the Commission/Council or Hearing Officer to impartially ask questions if the issues of the hearing have been incompletely covered by the parties and if such issues seem necessary for determination of the case. Generally, this should be done after the cross-examination is complete and shall be limited to clarification of information presented. The questions of the Commission/Council members shall not indicate an attitude about how the case shall be decided or the Commission/Council members have formed any opinion. Nor should they be asked in order to establish the presence or absence of any defense as the burden of establishing just cause is upon the County and the burden of establishing any defense is upon the appellant.
 - F. Both direct and cross-examination should be allowed wide scope.
 - G. Unless the Appellant objects, the appeal may be conducted in an executive session pursuant to A.R.S. § 38-431.03(A)(1). The Commission/Council may discuss and consider the action in the closed executive session. The final vote and decision on the appeal must take place in an open meeting.
 - H. The Commission/Council may conduct one or more executive sessions concerning any matter on the open meeting agenda for the purpose of obtaining legal advice, pursuant to A.R.S. § 38-431.03(A)(3), or for legal consultation in pending or contemplated litigation, pursuant to A.R.S. § 38-431.03(A)(4). These executive sessions are not to be used to discuss the merits of an appeal.

VII. DECISION BY THE COMMISSION/COUNCIL

There is just cause for action when:

- A. The Respondent/Department has proven one or more of the charges set forth in the written notice, and
- B. The action taken is warranted under the circumstances, and
- C. The action taken was within the range of permissible actions; and
- D. The action taken was in the discretion of the Commission/Council not too severe a penalty for the circumstances proven.

- E. The Commission/Council shall make substantially one of the following determinations on the appeal:
1. "The appeal be dismissed and the action imposed upon (employee's name) be affirmed for the reason there was just cause for the action imposed."
 2. "The appeal be sustained and the action be revoked and (employee's name) be reinstated to his/her position of employment with Pima County with full back pay for the reason the Appointing Authority failed to establish there was just cause for the action imposed."
 3. "The appeal be sustained and (employee's name) be reinstated to his/her position of employment with Pima County with full back pay except for a suspension without pay for a period of (# of days, weeks, months, or until a date certain) for the reason, while there was evidence the employee engaged in improper conduct, and there was evidence to support the imposition of some action, the Appointing Authority failed to establish there was just cause for the action imposed."
- [In the case of an appeal of actions other than dismissal or where a different form of action will be imposed (such as demotion), then the recommendation should be modified accordingly.]
- F. The determination on the appeal by the Commission/Council during the open meeting constitutes the oral decision. The written decision signed by each Commission/Council member who participated in the hearing will follow and be distributed to the Respondent, Appellant and the Appellant's appeal hearing file.
- G. If the decision by the Commission/Council is a dismissed or suspended employee be reinstated, a determination must be made as to whether or not the reinstatement is to be with or without back pay. In the event back pay is to be awarded, unless the parties agree to the amounts in question, another hearing should be conducted for the purpose of determining the amount of back wages and whether there should be any reduction in the back pay award for amounts which were earned or reasonably could have been earned during the period of dismissal or suspension (see Merit System Rule 14.4(B) and Law Enforcement Merit System Rule XIII-4(J)).

VIII. REQUEST FOR CONTINUANCE OF HEARING

- A. Either Respondent or Appellant may request a hearing set pursuant to the Merit System Rules/Law Enforcement Merit System Rules be continued. Such a request must be submitted to the Hearing Officer/Commission/Council, in writing at the earliest practicable time but in no event, other than an emergency, less than twenty-four (24) hours prior to the time set for the hearing.
- 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 upon motion of either party, or on motion of the Hearing Officer/Commission/Council, result in a recommendation and/or decision adverse to the party who failed to appear.

- C. The decision on a motion to continue can be made by the Hearing Officer/Commission/Council, or the Chair or the Acting Chair assigned to the appeal hearing.

IX. WITHDRAWAL OF AN APPEAL

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

X. CONCLUSION

- A. The role of legal counsel to the Commission/Council is to provide expertise on the open meeting laws, legal advice on proceedings and legal consultation as required.
- B. The role of Human Resources/Employment Rights is to support the Commission/Council in all of its duties and responsibilities, process appeals, provide expertise on the Merit System Rules and Personnel Policies, attend all meetings, and prepare minutes of meetings.

XI. GLOSSARY OF TERMS

The following terms are used in the appeal process and are arranged alphabetically for your convenience.

TERM	DESCRIPTION
APPEAL	A written request for a hearing filed with Human Resources by a permanent employee within ten (10) calendar days of receipt of the action taken by the department. An appeal must state the basis of the appeal and remedy requested and is permitted only in conjunction with appeals from actions as set forth in Section II A. above.
APPELLANT	A permanent employee who has filed an appeal to the Merit System Commission or Law Enforcement Merit System Council.
BURDEN OF PROOF	The responsibility of presenting evidence to prove a position. In an appeal, the Respondent/Department has the burden of proof and therefore presents its case first.
CLOSED HEARING	A hearing that is closed upon the Appellant's request, witnesses and interested parties, with the exception of the Appellant and the department's representative are not allowed in the hearing room during testimony and discussion of the appeal. All final decisions of the Commission/Council must be made in an open meeting.

TERM	DESCRIPTION
CONTINUANCE	A change in the hearing date of an appeal to a future date as agreed upon by both parties and the Commission/Council or as ordered by the Chair or Commission/Council. A continuance must be requested in writing pursuant to Merit System Rule 14.2 D. 2 and Law Enforcement Merit System Rule XIII-4 B. 6. A. Any party who has subpoenaed witnesses has the responsibility of notifying them of the continuance.
COURT REPORTER	A person contracted to record verbatim the proceedings of the appeal hearing. Transcripts can be obtained upon request to the court reporter and the cost for the transcript will be charged to the requesting party.
DEPOSITION	Testimony from a witness who does not reside within the County or within 100 miles of the place where the hearing is to be held, is out of state, or is too infirm to attend the hearing or by agreement of the parties. At their own expense, parties can have a deposition taken and used at the time of the hearing if the witness cannot attend.
DISCRIMINATION	Occurs when actions adverse to an employee in any aspect of employment are taken or not taken because of an employee's race, national origin, sex, color, religion, age, disability, veteran's status, sexual orientation or results of a genetic test received by the County, when applicable.
EXCLUSION OF WITNESSES	Upon request of either party, witnesses not currently testifying may be excluded from the hearing room and directed not to discuss any aspects of the hearing with anyone other than the designated representatives of the parties until the hearing has been concluded and the appeal has been decided.
EXHIBITS	Documentary evidence provided by the parties. Sufficient copies should be available, eight (8) copies of the exhibit (five (5) for the Commission/Council, the record, and legal counsel and one for the opposing party and the witness) when the hearing is conducted by a quorum of the Commission/Council and five (5) copies when the hearing is conducted by a Hearing Officer (two (2) for the Hearing Officer and the record and one for each party and a witness). Exhibits for the Respondent/Department are designated numerically; exhibits for the Appellant are designated alphabetically.

TERM	DESCRIPTION
HEARING	A quasi-judicial or informal proceeding resulting from an appeal. Technical Rules of Evidence or “Court Procedures” do not apply. The Appellant and the department may be represented at the hearing; both parties may present evidence through witness testimony and/or exhibits.
HEARING DATE	<p>(Merit System Rules) Within twenty (20) calendar days after an appeal is filed, the Commission shall set a date for a hearing of the appeal. (A.R.S. § 11-356 C.)</p> <p>(Law Enforcement Merit System Rules) Every hearing on an appeal shall commence within twenty (20) calendar days from receipt by the Council, unless the time is extended by the Council or the Hearing Officer, or unless the Council or Hearing Officer is unable to hear it within the 20 calendar days, or for good cause.</p>
HEARING OFFICER	A member of the Merit System Commission/Law Enforcement Merit System Council assigned to hear an appeal in accordance with the MSC/LEMSC Rules.
MOTION	A request made to the Commission/Council for a ruling or order on a specific issue related directly to an appeal. [Either party may make a motion to exclude certain evidence or even to dismiss the appeal.]
OPEN HEARING	All Commission/Council meetings are open to the public as required by the Arizona Revised Statutes. Unless the Appellant requests a closed hearing, any interested party will be able to attend the meeting when the hearing is being conducted.
QUORUM	A majority of the Commission/Council members shall constitute a quorum.
RESPONDENT	The Pima County department for which the employee works or worked.
REPRESENTATIVE	An attorney or a non-lawyer serving as the employee’s representative. The Appellant may represent herself/himself. Legal representation is at the Appellant’s expense.

TERM	DESCRIPTION
SUBPOENA	A written legal order issued by the Board of Supervisors at the Commission/ Council's request directing a person to appear at an appeal hearing to testify. It is the responsibility of the Appellant, or her/his representative, to provide Human Resources with the name(s) and address(es) of the person(s) to be subpoenaed no less than five (5) business days prior to the scheduled hearing. Subpoenas may be issued for both County and non-County witnesses. Human Resources will send subpoenas for County employees to their Appointing Authority for service. The Appellant, or her/his representative, will be responsible for serving subpoenas to non-County witnesses.
SUPOENA DUCES TECUM	A subpoena for documents or other tangible things.
TRANSCRIPT	A verbatim report of the proceedings of the hearing as prepared by the court reporter. Transcripts may be ordered through the court reporter at the expense of the requesting party.
WITHDRAWAL	A written request to withdraw the appeal may be submitted by an Appellant at any time prior to and/or during the appeal hearing, prior to the decision by the Commission/Council.

XII. IMPORTANT DATES IN THE PROCESS

IMPORTANT DATES	DESCRIPTION
Day 1	Written notice of appealable action.
10 Calendar Days after Day 1	Deadline for appeal to be filed with Human Resources.
20 Calendar Days after Appeal Filed	<p>(Merit System Rules) The Commission shall set a date for a hearing of the appeal after appeal filed within 20 calendar days from the filing of the appeal.</p> <p>(Law Enforcement Merit System Rules) Every hearing on an appeal shall commence within twenty (20) calendar days from receipt by the Council, unless the time is extended by the Council or the Hearing Officer, or unless the Council or Hearing Officer is unable to hear it within the 20 calendar days, or for good cause.</p>
14 Calendar Days before Hearing Date	(Merit System Rules) Notice of appeal hearing must be sent out to all parties by before hearing date Human Resources.
7 Business Days before Hearing Date	Appellant/Respondent must submit written request to Respondent/Appellant for before hearing date discovery (the exchange of documents used to prepare case). Human Resources should be copied on the request.
5 Business Days before Hearing Date	<p>Appellant must submit names and addresses of persons to be subpoenaed to before hearing date Human Resources.</p> <p>(Law Enforcement Merit System Rules) Human Resources shall, at least (5) business days prior to the meeting, mail or cause to be mailed to the Sheriff and 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.</p>
4 Business Days before Hearing Date	Copies of documents for discovery must be provided to the opposing party. before hearing date.

IMPORTANT DATES	DESCRIPTION
2 Business Days before Hearing Date	<p>Appellant/Respondent must submit a list of exhibits and witnesses to Human before hearing date Resources.</p> <p>Pre-hearing conference held to identify witnesses and exhibits, agree to admissibility of exhibits before hearing date, to stipulate to those facts not in dispute, and to discuss possible settlement.</p>
HO Hearing Date	Date of hearing of appeal by a Hearing Officer (HO); Open Meeting Laws do not apply.
Hearing Date	Date of hearing of appeal by a quorum of the Commission/Council; Open Meeting Laws apply.
30 Calendar Days after Completion of Hearing	The Hearing Officer will prepare and submit a report to Human Resources no later after completion than thirty (30) calendar days after the final hearing date.
15 Calendar Days before Commission/Council meeting	<p>Human Resources/Employment Rights must distribute the Hearing Officer's report to all parties before it can be heard by a quorum of the Commission/Council at an upcoming Council meeting.</p> <p>The hearing on the appeal shall be held not less than fifteen (15) calendar days from receipt of the Hearing Officer's report.</p>
5 Business Days before Commission/Council meeting	Appellant and Respondent may submit a written response to the Hearing Officer's report to Human Resources. Post hearing evidence is not allowed unless approved I Council meeting by the Commission/Council.
Final Hearing Date Commission/Council meeting	Date when Commission/Council makes a decision on the appeal. Written decision distributed by Human Resources/Employment Rights when all necessary signatures on written decision are obtained.
10 Business Days after Notice of Written Decision	Appointing Authority must comply with decision if action was revoked or modified and must report action to Human Resources.
35 Days after Written Decision	Findings and decisions of the Commission/Council are final and subject to judicial review only by the Superior Court as provided in A.R.S. § 12-904 (for Merit System Commission). Any action to secure judicial review pursuant A.R.S. § 12-904 must be commenced within thirty-five (35) days of the mailing of the decision.