

A RULE FOR ACTION BY AN APPOINTING AUTHORITY TO DEMOTE, SUSPEND OR TERMINATE AN EMPLOYEE WHO HOLDS A POSITION IN THE CLASSIFIED SERVICE OF THE COUNTY; PROVIDING NOTICE OF ACTION; METHOD OF SERVICE OF ACTION; RIGHT OF EMPLOYEE APPEAL; METHOD OF AMENDING CHARGES AND SPECIFICATIONS, AND NEW CHARGES; METHOD OF INSTITUTING NOTICE AND DATE OF HEARING; NATURE OF HEARINGS, PROCEDURES, EVIDENCE, ETC; CERTIFICATION OF SERVICE; COMPUTATION OF TIME.

SECTION I. Commencement of Action. An action by an appointing authority to demote, suspend or terminate an employee who holds a position in the classified service of the county shall be commenced by filing notice of such action with the Civil Service Board and on the employee against whom the action is taken.

A. Said actions shall become a permanent part of the employee's personnel file and shall not be removed.

B. In the event an employee receives an action listed below, said action shall defer the annual increase for the time period listed below: amended 08/25/2005

<u>ACTION</u>	<u>MINIMUM TIME</u>
1 st (1 day) suspension	None
2 nd or subsequent (1 day) suspension or any suspension (2 – 30 days)	6 months

SECTION II. Notice of Action. Notice of the action to an employee in the classified service shall state in writing the nature of the action taken, the effective date of the action, and, if a suspension, the duration thereof. Such notice shall specify the factual basis for said action in sufficient detail to provide the employee an opportunity to prepare a defense. Such notice shall be signed by the appointing authority, or the authorized representative thereof. Said notice shall be filed with the Civil Service Board (or at the office designated by the Civil Service Board) no more than ten days, excluding holidays of the relevant taxing authority, after the effective date of the action.

If the notice of the action is not filed with the Civil Service Board within ten days of the effective date of such action the employee will be reinstated and reimbursed for any loss of pay or allowance. Such action may then be refiled by the relevant appointing authority.

SECTION III. Service of Notice of Action on Employee. Service of notice of action on an employee in the classified service against whom such action has been taken shall be made by delivering a copy of such notice to the employee in person or by legal service of process, or if

the employee is absent without leave from his employment in the classified service, by mailing a copy of such notice by certified United States mail to the last known address of said employee as reflected in the personnel records of the Human Resource Department.

SECTION IV. Suspension of a Classified Employees for a Reasonable Period. Any appointing authority may suspend an employee for a reasonable period not to exceed thirty working days pending hearing and decision. Every such suspension shall be without pay, provided, however, that the Civil Service Board shall have the authority to investigate every such suspension and, in case of its disapproval, shall have the power to restore pay to the employee for such suspended time.

SECTION V. Appeal by Employee to the Board, Right of Appeal, Etc. An employee who has been demoted, suspended or dismissed by their appointing authority from a position in the classified service, and who has been duly appointed to such position in accordance with the Act and these rules and who has attained status by serving the required probationary period, shall have the right to appeal such action to the Civil Service Board. To appeal, the employee shall, within ten calendar days (excluding holiday's of the relevant taxing authority) after the charges are filed with the Civil Service Board or after the date of service upon them of notice of such action, whichever is later, file their appeal, in writing in the Civil Service Board; it shall be sufficient for the employee to deny the charges or reasons given for the action taken, and request a hearing before the Civil Service Board. The appeal shall be signed by the employee or their attorney, and shall state the address to which a copy of the notice of hearing and other pleadings or papers filed in this action should be mailed. Copy of such appeal shall forthwith be served upon the appointing authority or its representative who initiated the action against the employee by delivery or regular United States mail to their address of record.

SECTION VI. Amendments to Charges and Specifications, New Charges, Etc. In disciplinary actions in which an appeal has been filed, no amendment to the charges and specifications filed or the action taken or recommended against employee shall be made more than ten days after the effective date of the action, unless the Board, upon good cause shown, permits the filing of the amendment or unless the employee against whom the action was taken so stipulates in writing. Such amendments when, timely made, shall be filed in the Civil Service Board, and a copy thereof served upon the employee by delivery or regular United States mail, to their address of record. Unless presented in a timely manner such amendment shall be deemed denied, and it shall not be necessary for the employee to file any answer to other pleading to such amended action. The appointing authority may elect to rescind the action taken, reinstate the employee, pay all back salary lost by the employee as a result of the original action taken and initiate a new or different action based upon the new, amended or additional charges and specifications against the employee. In such cases, the employee and the Civil Service Board will be notified in writing.

When an employee does not appeal the action, any amendments to charges or specifications, or the action taken or recommended, against the employee shall be filed with the Civil Service Board. Notice to the employee shall be served upon the employee in the same manner required

for service of the original notice of action. The employee shall have ten days after such amendments are filed with the Civil Service Board or after service upon them of such amended action, whichever is later within which to appeal.

SECTION VII. Date of Hearing, Notice, Etc. When the action of an appointing authority is appealed by the employee against whom it is taken, the Civil Service Board shall set a date, time and place for the hearing, and so notify the appointing authority and the employee.

SECTION VIII. Prehearing Discovery. The complaining employee and the appointing authority may obtain discovery by one or more of the following methods:

- A. Depositions upon oral examination.
- B. Written Interrogatories.
- C. Production of documents or things.
- D. Request for admissions.

The use and frequency of these discovery methods are subject to the discretion of the Civil Service Board or if so empowered by the Civil Service Board attorney. The parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action. In the event of noncompliance with requested discovery, upon reasonable notice to the other parties, a party may apply to the Civil Service Board for an order compelling discovery. The Civil Service Board may resolve such a matter or may empower the Board's attorney.

SECTION IX. Prehearing motions and service of subpoenas. All motions directed to the legal sufficiency of any claim or defense, the jurisdiction of the Civil Service Board, or any discovery matter must be filed and heard prior to the commencement of the hearing upon the grievance, complaint or appeal. The Civil Service Board attorney shall resolve all motions.

The sheriff of any county shall serve subpoenas and shall receive the same fees as they normally charge for such services, and each witness who appears, in obedience to a subpoena before the Civil Service Board, a member thereof or its director, shall receive for their attendance the fee and mileage provided for witnesses in the circuit courts of this state. These expenses shall be the responsibility of the party requesting the service of subpoena or testimony of the witness.

SECTION X. Pre-hearing Procedure.

A. Case Management Conferences. At any time after the employee files his or her appeal, the hearing officer on his or her own initiative may convene, or a party, by serving a notice may request the hearing officer convene, a case management conference. The matters to be considered shall be specified in the order or notice setting the conference. At such a conference, the hearing officer may:

- 1. schedule or reschedule the service of motions, pleadings and other papers;
- 2. set or reset the times of hearings;

3. coordinate the progress of the action;
4. limit, schedule, order, expedite and otherwise address discovery;
5. schedule the disclosure of witnesses and exhibits and allow opportunity for review and inspection of exhibits;
6. schedule disclosure of witnesses and the discovery of facts known and opinions held by such experts;
7. schedule and hear motions in limine.
8. pursue the possibilities of settlement;
9. require filing of preliminary stipulations if issues can be narrowed; and
10. schedule other conferences or determine other matters that may aid in the disposition of the action.

B. Pre-hearing Conference. After the action is scheduled for hearing, the hearing officer may, on his or her own initiative, or shall on a timely motion of any party, require the parties to appear for a conference to consider and determine;

1. the simplification of issues;
2. the possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;
3. the limitation of the number of witnesses;
4. any matters permitted under subdivision (A) of this section.

C. Pre-hearing Order. The hearing officer may make an order reciting the action taken at a conference and any stipulations made. The order shall control the subsequent course of the action unless modified to prevent injustice.

SECTION XI. Nature of hearings, procedures, evidence, etc. Hearings will be conducted as informally as is compatible with justice. The appointing authority and then the employee shall be given the opportunity to make opening statements before presentation of evidence. The appointing authority will present their case first and after completion, the employee will present their case. Members of the Board may direct questions to any party or witness at any time during the proceedings. Each side will be given the opportunity, at the appropriate time, to cross-examine the witness. Both sides will be allowed to make closing statements.

A. The Civil Service Board's attorney shall act as hearing officer at any hearing.

B. The Civil Service Board will not be bound by strict rules of evidence. Testimony and evidence will be restricted to the pleadings or, in the event of an appeal of a disciplinary action, will be restricted to the charges and defenses. Any evidence unconnected with the charges will not be allowed. Either party may invoke the rule of excluding witnesses from the hearing room until such time as they are called to testify.

C. A file comprised of the employee's personnel record will be introduced as Civil Service Board exhibit "1". A hearing file comprised of all papers, correspondence, and documents relative to the appeal will be introduced as Civil Service Board exhibit "2". Both sides will be given the opportunity to object to the consideration of the Civil Service board to any portion of these files.

D. The employee appealing the action of an appointing authority may be called as an adverse witness by the appointing authority and refusal by the employee to answer any relevant questions propounded by the appointing authority or any member of the Civil Service Board may be considered as evidence in support of the charges.

E. The Civil Service Board will determine by the majority vote of the members whether or not just cause exists for the action(s). The burden of proof for showing just cause will rest with the Appointing Authority. Should the vote of the Civil Service Board result in a tie, then just cause will not have been proven. An "Order", setting forth findings of fact and conclusions of law based upon the decision of the Civil Service Board, shall be prepared no later than 30 days after the hearing. Extensions of the 30 day requirement may be made by the Civil Service Board upon showing of good cause.

SECTION XII. Certification of service. When, under these rules, service by delivery or mail is authorized, it shall be prima facie evidence of such service if the party making such service shall certify upon the original to be filed in the Human Resource Department office that service was made, the manner of service and the date of such service.

SECTION XIII. All papers filed in connection with any appeal shall be public record unless otherwise exempted by law.

SECTION XIV. Action and/or appeals may be withdrawn by written notice to the Civil Service Board.

SECTION XV. Computation of Time. In computing time for doing any act required to be done in this section, if the last day shall fall on a Saturday, Sunday, or holiday authorized by the Act, it shall not be included.

SECTION XVI. The effective date of this rule shall be July 1, 2002.