

RESOLUTION

(Adopted December 5, 1977 by the Maricopa County Board of Supervisors under the provisions of Arizona Revised Statutes 38-1001 through 38-1007 establishing the

MARICOPA COUNTY LAW ENFORCEMENT OFFICERS MERIT SYSTEM COMMISSION.)

* * * * *

SECTION 1. TITLE

This resolution shall be known and may be cited as the Maricopa County Law Enforcement Officers Merit System Resolution.

SECTION 2. ADMINISTRATION

This merit system shall be so construed and administered as to provide a uniform and equitable system of personnel administration of sworn paid law enforcement officers. Recruitment, selection, appointment, development, promotion, transfer, layoff, classification, compensation, separation, discipline, dismissal, appeal hearing and provision for the welfare and rights of county employees shall be performed in a manner to secure and retain well-qualified employees to carry out legally mandated responsibilities effectively and efficiently and to provide reasonable stability of employment in the Sheriff's Office.

SECTION 3. MERIT PRINCIPLES TO BE OBSERVED

The system of personnel administration for employees in sworn paid law enforcement officers classified service shall be based upon merit principles which shall insure an impartial recruiting, examining and selecting program; position classification plans based on duties and responsibilities; promotion on merit; and protection against arbitrary disciplinary action. All appointments and promotions shall be made according to merit and fitness as ascertained by competitive examinations given in accordance with the provisions of this Resolution and Rules per Arizona Revised Statutes 38-1001 et seq.

SECTION 4. DEFINITIONS

The following words and terms shall have the meaning indicated below unless the context clearly indicates otherwise. (Such terms shall be defined consistent with ARS 38-1001 et seq.)

APPOINTING AUTHORITY: the Sheriff of Maricopa County.

APPOINTMENT: the offer and the acceptance of employment in the county service in compliance with this Resolution.

BOARD: the Maricopa County Board of Supervisors.

CLASSIFIED SERVICE: all sworn paid law enforcement officers of the Maricopa County

Sheriff's Office.

COMMISSION: the Maricopa County Law Enforcement Officers Merit System Commission.

COUNTY: the Maricopa County government.

DEPARTMENT: the Maricopa County Sheriff's Office.

DIRECTOR: the Maricopa County Human Resources Director or designee.

ELIGIBLE: a person who has qualified for and attained a passing score on an examination for a specific class.

EMPLOYEE: a sworn law enforcement officer who is paid a wage, salary or stipend from public monies in accordance with official entries on a county payroll.

POSITION: a specific employment, whether occupied or vacant, involving duties requiring the services of one person.

PROBATION: a specified period of employment following appointment, reemployment, transfer, promotion or demotion: it is the final step in the examination process during which the work performance of an employee is evaluated.

PROMOTION: a change in the assignment of an employee from a position in one class to a position in another class having a higher range of pay.

REGULAR STATUS: a status an employee achieves when he is retained in a position of the classified service after the successful completion of the initial probation period.

SUSPENSION: the temporary separation of an employee from his position for disciplinary reasons.

SECTION 5. COUNTY SERVICE - LAW ENFORCEMENT OFFICERS

The county service (law enforcement officers) shall encompass all employment of regularly appointed and paid deputy sheriffs within the Maricopa County Sheriff's Office. The county service shall not include persons who perform services for which payment is made on a fee, contract or claim basis.

SECTION 6. EXEMPTIONS

The Sheriff, one Chief Deputy, and two at-will Chiefs equivalent to Deputy Chief or above, shall be exempt from the provisions of this Resolution. The Chief Deputy is not exempted from this Resolution if appointed under the provisions of Rule 9.14.

SECTION 7. HUMAN RESOURCES DEPARTMENT

There shall be in Maricopa County government, a Human Resources Department, the executive head of which shall be the Human Resources Director who shall be responsible to the Commission for the accomplishment of all Human Resources

functions assigned to him by the Commission. He shall be responsible to the Board through the County Manager for all other Human Resources functions in both the classified and the unclassified service.

SECTION 8. MERIT SYSTEM COMMISSION

- A. There shall be a Commission of five members appointed by the Board with the powers and duties hereinafter enumerated. The Commission shall have authority within the classified service concerning examination, eligibility, classification, appointment, grievances and related matters as established in the Law Enforcement Officers Merit System Rules: it shall also advise the Director, County Manager and Board concerning pay, benefits and other human resource matters for both the classified and unclassified service.
- B. Members of the Commission shall be selected from among the qualified electors of the county and shall be persons having recognized knowledgeable interest in the merit principles of personnel administration. No more than three of such members shall be from the same political party. No member of the Commission shall be a member of any local, state, or national committee of a political party or an officer or member of a committee in any partisan political club or organization, or shall hold or be a candidate for any elective public office except as defined in Section 18 of this resolution and consistent with ARS 38-1001 et seq.
- C. Each member shall hold office for a term of four years and until his successor is appointed and qualified. Of the members first appointed, two shall serve for a two year term, two for a three-year term and one shall serve a four-year term, and such members shall determine by lot the length of their terms. Appointment to fill a vacancy caused by other than expiration of term shall be for the unexpired portion of the term.
- D. A member of the Commission may be removed by the Board for cause. Any one of the following shall constitute the resignation of a Commissioner and authorize the board to appoint a new member to fill the unexpired term so vacated:
 - 1. Absence from three consecutive quarterly meetings.
 - 2. Becoming a candidate for any elective public office except as defined in Section 18 of this resolution.
 - 3. Accepting any appointive office or employment in the county service.
- E. The Commission shall elect one of its members chairman. It shall meet at such times and places as shall be specified by call of a majority of the Commission or of the chairman. At least one meeting shall be held in each quarter. All meetings shall be open to the public. At least five days written notice of each meeting shall be given by the Director to each member not joining in the call. Three members shall constitute a quorum for the transaction of business. A majority of the quorum may take legal action in all areas of the Commission duties and powers. The Director shall give at least 10 days' notice of Commission meetings to employees covered hereunder by posting the time and place of such meetings on a bulletin board within the work area of said employees. Agendas will be made available upon request at least five days prior to the Commission meeting.

SECTION 9. POWERS AND DUTIES OF THE COMMISSION

The Commission shall perform such duties and exercise such powers as are necessary to carry out the provisions of ARS §38-1001, et seq. The Maricopa County Law Enforcement Officers Merit System Commission may seek assistance in its day-to-day administrative functions and assign administrative functions as they deem necessary to the Director. In addition, it shall be the duty of the Commission to serve as the independent personnel board of the county under ARS § 38-532(H) and to adopt policies and procedures as it may deem necessary or appropriate under such authority.

SECTION 10. APPOINTMENT AND DUTIES OF THE DIRECTOR

- A. The Director shall be a person who has had experience in the field of public personnel administration and is in sympathy with the application of merit principles and scientific methods to public employment.
- B. The Director, as executive head of the Human Resources Department, shall direct and supervise all of its administrative and technical activities. In addition to the duties imposed upon him elsewhere, it shall be the duty of the Director:
 - 1. To attend meetings of the Commission and to act as its secretary and keep minutes of its proceedings.
 - 2. To prepare for the approval of the Commission and maintain a roster of all employees covered by this Resolution in which there shall be set forth, as to each employee, the class title, pay or status and other pertinent data.
 - 3. To appoint such employees of the Human Resources Department and such special assistants as may be necessary to carry out effectively the provisions of this resolution.
 - 4. To develop, in cooperation with the appointing authority and others, programs for the improvement of employee effectiveness, including training, health, counseling and welfare.
 - 5. To review from time to time the operation and effect of this Resolution and of the Rules and to report his findings and recommendations to the Commission.
 - 6. To perform any other lawful act which he may consider necessary or desirable to carry out the purposes and provisions of this resolution and consistent with ARS 38-1001 et seq.

SECTION 11. MERIT SYSTEM RULES

- A. The Director shall prepare and submit to the Commission proposed rules for the classified service. The Commission shall give reasonable notice to the Sheriff and the employees covered by this resolution and they shall be given an opportunity, upon request, to appear before the Commission to express their views thereon. Such notice shall be effected by posting on a bulletin board within the work area of the Department the time and place for the hearing of such proposed rules, 10 days before such hearing. Copies of proposed rules will be made available upon request.

- B. Rules or amendments shall become effective thirty days after adoption by the Commission unless otherwise specified by the Commission. The Rules shall provide:
1. For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon the similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required and the same schedule of pay may be equitably applied to all positions in the same class. Each position authorized by the Commission shall be allocated to the proper class and assigned to the appropriate pay range for that class.
 2. For open competitive examinations to determine the relative fitness of applicants for employment in the service.
 3. For promotion which shall give appropriate consideration to the applicant's qualifications, record of performance, seniority and conduct. Vacancies shall be filled by promotion within the department whenever possible.
 4. For the establishment of eligible lists for appointment and promotion, upon which lists shall be placed the names of successful candidates in order of their relative excellence in the respective examinations. The duration of eligible lists for initial appointment and promotion shall be for no more than one year unless extended by the Commission for not more than one additional year, unless no promotions from the eligible promotion lists have occurred; in which case the Commission may extend the eligible lists for up to two additional years; in certifying eligibles to the Sheriff, the Commission shall not certify more than the top five names from the eligible list for a single vacancy. Where more than one vacancy exists, the list shall include a number of names equal to the number of vacancies plus four. Such lists shall be preserved for one year after their effectiveness expires.
 5. For the rejection of candidates who failed to comply with reasonable requirements in regard to such factors as age, physical condition, training and experience or who have been convicted of a felony or who have attempted any deception or fraud in connection with an examination.
 6. For periods of probationary employment. During the initial probation period following appointment any employee may be discharged or demoted without charges or hearing except that any applicant or employee, regardless of status, who has a reason to believe that he has been discriminated against because of religious or political opinions or affiliations or race or sex or national origin in any personnel action may appeal to the Commission in accordance with the provisions of Section 16.
 7. For keeping records of performance of all employees in the classified service.
 8. For layoff of a covered employee in the department whenever it is necessary by reason of shortage of funds or work or by reduction of the statutory duties of the Sheriff.

9. For the suspension of employees with or without pay as a disciplinary measure.
10. For discharge or demotion of a regular status employee only for cause.
11. For competitive selection of employees for all classes in the classified service.
12. For establishment of a plan for resolving employee grievances, complaints and alleged discrimination, including handicap.
13. For such other rules, not inconsistent with this Resolution or the terms of Arizona Revised Statutes 38-1001 through 38-1007 as may be proper and necessary for its enforcement.

SECTION 12. CHARACTER OF EXAMINATIONS

- A. The entrance and promotion competitive examination shall be of such character as to determine the qualifications, record of performance, seniority, conduct within the field of law enforcement, fitness and ability of the person tested to perform the duties of the class of positions for which a list is to be established.
- B. The competitive examinations may be written, oral, physical, or in the form of a demonstration of skill or any combination of such types.

SECTION 13. MINIMUM QUALIFICATIONS

The minimum qualifications or standards prescribed for county employment hereunder shall not be less than those prescribed by law and changes to a class specification that increase educational requirements shall have no effect on the eligibility of incumbents of the class to progress in the series of the class until a level of the series is reached that specifically requires a graduate degree, a specific license, registration, board certification, or similar accreditation by a recognized association or agency.

SECTION 14. RETURN TO POSITION COVERED BY THIS RESOLUTION FROM EXEMPT POSITIONS

An employee covered by this Resolution who has taken or takes a position which is exempt and who thereafter is ready to report for duty for a position covered by this Resolution shall be placed on the eligible list for the appropriate class in which he has attained regular status for future reemployment when vacancies in the class occur. The order in which names shall be placed on the eligible list for any class shall be by seniority in county service in accordance with the Rules of the Commission.

SECTION 15. REPRIMAND, SUSPENSION, DEMOTION, DISMISSAL

- A. An appointing authority, subject to Arizona Revised Statutes 38-1001 through 381007 and any regulations issued by the Commission, may reprimand an employee in the classified service under his jurisdiction or suspend such an employee without pay or with reduced pay for a period not exceeding thirty consecutive calendar days for any single cause.
- B. An appointing authority, subject to Arizona Revised Statutes 38-1001 through 381007 and any regulations issued by the Commission, may demote an employee in the classified service under his jurisdiction from a position in any given class or

grade to a position in a lower class or grade for which the employee possesses necessary qualifications. The appointing authority shall give the Commission written notice of his intention to effect any such demotion before the date it is intended to become effective. The Commission may transfer such an employee whose record is otherwise satisfactory to a similar position or one for which he is qualified under the jurisdiction of another appointing authority with the approval of such other appointing authority and with the approval of the employee.

- C. An appointing authority may remove any employee with regular status only for cause. Each of the following constitutes cause for discipline or dismissal of an employee in the county service:
1. Fraud in securing or maintaining appointment
 2. Incompetency
 3. Inefficiency
 4. Abuse of sick leave
 5. Neglect of duty
 6. Insubordination
 7. Dishonesty
 8. Possessing, dispensing, or being under the influence of alcohol, narcotic, barbiturate, marijuana, tranquilizer, hallucinogenic or any other drug listed and/or defined in A.R.S. §13-3401, which would affect the employee's suitability for continued employment, except in accordance with medical authorization or in the lawful performance of the employee's regularly assigned duties.
 9. Inability for medical reasons.
 10. Absence without leave
 11. Commission or conviction of a felony or of a misdemeanor, either of which would affect the employee's suitability for continued employment.
 12. Discourteous treatment of the public or fellow employees
 13. Improper political activity
 14. Discrimination, including harassment, by any employee against or in favor of an applicant, eligible or employee, or member of the public, because of political affiliations, race, sex, religion, color, national origin, age, handicap or any other non-merit factor as determined by the Merit System Commission in accordance with A.R.S. §41-1461, et seq., or any other state or federal laws which may be applicable to employment with Maricopa County.
 15. Misuse of government property
- D. In addition to the causes prescribed herein, the Merit System Commission may establish other causes that are deemed necessary.
- E. A regular status employee shall be given written notice of such dismissal and one copy of same shall be filed with the Director as ex officio Clerk of the Commission and one copy shall be filed with the Clerk of the Board. Such notices shall set forth the reasons for dismissal in sufficient detail to indicate whether the employee was discharged for misconduct, incompetency or other reasons relating to the effective

performance of his duties and shall be prepared in such form and given in such manner as the Commission prescribes. The name of any such employee dismissed for incompetency or other reasons relating to the effective performance of his duties shall be immediately removed from the eligible list in the office of the Commission subject to reinstatement by the Commission.

SECTION 16. APPEAL BY EMPLOYEE

- A. Any employee covered hereunder holding a regular status position who is demoted, suspended, or dismissed may appeal to the Commission. Any appeal concerning demotion, dismissal or suspension shall be filed with the Director, as ex officio Clerk of the Commission, not later than ten (10) days following the date of receipt by the employee of a written order from the appointing authority.
- B. A copy of such appeal shall be forwarded by the Director to the appointing authority of the employee and to the Commission. The Commission shall thereupon assign a time and place for a hearing and shall give notice thereof to all parties concerned. Within twenty business days from the filing of the appeal the Commission shall commence the hearing and either affirm, modify or revoke the order.
- C. The appellant may appear personally, produce evidence, have legal counsel and, if requested by the appellant, a public hearing.
- D. Both the employee and his appointing authority shall be notified reasonably in advance of the hearing. The Commission, or a duly appointed hearing officer, shall conduct the hearing. The Commission shall prepare an official record of the hearing, including all testimony recorded manually or by mechanical device, and exhibits; but it shall not be required to transcribe such record unless requested by the employee, who shall be furnished with a complete transcript upon payment of the actual cost.
- E. The Commission shall not be bound by technical rules of evidence prevailing in the courts. If, after hearing, a majority of the Commission members present at the meeting where the vote is taken determines that the action appealed from was arbitrary or taken without reasonable cause, the appeal shall be sustained; otherwise, the appeal shall be dismissed. The Commission shall have the power to direct appropriate remedial action and shall do so after taking into consideration just and equitable relief to the employee and the best interests and effectiveness of the county service.
- F. Within 35 days of a decision by the Commission sustaining an appeal, the appointing authority of the employee shall take such measures as are necessary to comply with the remedial action directed by the Commission and shall render a report of such measures to the Director as ex officio Clerk of the Commission.
- G. The findings and decisions of the Commission shall be final and shall be subject only to administrative review as provided in Arizona Revised Statutes 38-1004.
- H. An employee laid off or dismissed by reason of economy, lack of work, insufficient appropriations, change in departmental organization or abolition of position may file an appeal with the Commission only on the ground that the order of layoff or

dismissal has not been determined in accordance with this Resolution and the Rules of the Commission.

- I. Matters involving compensation schedules and classes of positions shall not be appealable under this section.
- J. The Commission may request the Board to issue subpoenas to compel attendance of any person and production of any books or papers relating to any investigation or hearing authorized by this Resolution in accordance with the powers of the Board under Arizona Revised Statutes 11-218.

SECTION 17. NONDISCRIMINATION

No discrimination shall be exercised in any manner by any county official, appointing authority or employee against or in favor of any applicant, eligible or employee because of his political or religious opinions or affiliations, or because of race, sex, religious creed, color, national origin or ancestry by refusing to hire or employ him, or to bar him or to discharge him from employment or discriminate against him in compensation, or in termination conditions or privileges of employment, all as specified in Arizona Revised Statutes Title 41, Chapter 9, Article 4, Section 11 B(6) and 16 of this Resolution provided the right of appeal by any applicant or any employee regardless of his status to the Maricopa County Human Resources Commission in any case of alleged discrimination as defined herein or appeal whenever any alleged discrimination is handled by means of grievance procedures established by the rules and regulations implementing this Resolution.

SECTION 18. POLITICAL ACTIVITY

A. It is the intent of Maricopa County to conform to the public policy that government programs be administered in an unbiased manner and without favoritism for or against any political party or group or any member in order to promote public confidence in government, governmental integrity and the efficient delivery of governmental services and to ensure that all employees are free from any express or implied requirement or any political or other pressure of any kind to engage or not engage in any activity permitted by this section. B. An employee shall not:

- 1. Use any political endorsement in connection with any appointment to a position in the county classified service.
- 2. Use or promise to use any official authority or influence for the purpose of influencing the vote or political action of any person or for any consideration.
- C. An employee shall not be a member of any national, state or local committee of a political party, or an officer or chairman of a committee of a partisan political club, or a candidate for nomination or election to any public office which is either paid or partisan, or take any part in the management or affairs of any political party or in the management of any partisan or nonpartisan campaign or recall effort, except that an employee may:
 - 1. Express his opinions;
 - 2. Attend meetings for the purpose of becoming informed concerning the candidates for public office and the political issues;

3. Cast a vote;
 4. Sign nomination or recall petitions;
 5. Make contributions to candidates, political parties or campaign committee
 6. contributing to candidates or advocating the election or defeat of candidates;
 7. Circulate candidate nomination petitions or recall petitions;
 8. Engage in activities to advocate the election or defeat of any candidates;
 9. Solicit or encourage contributions to be made directly to candidates or campaign committees contributing to candidates or advocating the election or defeat of candidates;
 10. Campaign for himself and hold unpaid, nonpartisan public office;
 11. Campaign for or against ballot issues, referendum questions, constitutional amendments, municipal ordinances, etc. except where a conflict of interest is created.
- D. Except for expressing his opinion or voting pursuant to Rule 13.06 E., an employee shall not engage in any activity permitted by this section while on duty, while in uniform or at public expense. Employees who may have exclusive possession and control over ballots, shall be prohibited from engaging in the activities permitted other employees pursuant to Sections C.6 through C.9. in any election to be tabulated by Maricopa County.
- E. The provisions of this section shall not apply to school board elections or community college district governing board elections, and an employee or commissioner may serve as a member of the governing board of a common or high school district or as a member of a community college district governing board.
- F. An employee shall not be discriminated against for engaging in or not engaging in any activity permitted by this section.
- G. A person shall not solicit any employee to engage in or not to engage in activities permitted by this section with the direct or indirect use of any threat, intimidation or coercion including threats of discrimination, reprisal, force or any other adverse consequence including the loss of any benefit, reward, promotion, advancement or compensation.
- H. Any person in the county service who violates any of the provisions of this section shall be subject to suspension of not less than thirty consecutive days or dismissal.
- I. Nothing in this section shall be construed as denying any Commissioner or employee any civil or political liberties as guaranteed by the United States and Arizona constitutions.

SECTION 19. NONCONFORMITY WITH FEDERAL AND STATE STANDARDS

Whenever any provision of this merit system conflicts or is inconsistent with federal standards for personnel administration or state law authorizing a state agency to establish minimum standards for personnel or performance, the Commission is authorized to vary the terms of its rules to the extent necessary to comply with conditions for federal and state grants.

SECTION 20. COMPLIANCE

All officials, appointing authorities and other county employees shall conform to, comply with, and aid in carrying into effect the provisions of this Resolution and the Rules adopted hereunder.