

DRAFT – DATED: MARCH 30, 2007

UPDATED: MAY 16, 2007

CIVIL SERVICE COMMISSION

COUNTY OF EL DORADO

RULES OF PROCEDURE

RULE 1: AUTHORITY AND PURPOSE

- 1.01 AUTHORITY:** Under the authority of the El Dorado County Charter, Article V, section 502.2, and the El Dorado County Civil Service Ordinance, the Civil Service Commission (hereafter “Commission”) does prescribe and adopt these Rules, which shall have the force and effect of law.
- 1.02 PURPOSE:** These Rules are prescribed for the purpose of assuring fair and impartial treatment to all employees and applicants for employment in the classified service. To these ends, the Rules shall be liberally construed.
- 1.03 SEVERABILITY:** If any Rule, section, paragraph, sentence, clause, or phrase of these Rules is declared unconstitutional or void for any reason, the validity of the remaining portions of these Rules shall not be affected by such a decision. The Commission hereby declares that it would have prescribed and adopted these Rules, and each Rule, section, paragraph, sentence, clause, and phrase hereof, irrespective of the fact that any one or more of the Rules, sections, paragraphs, sentences, clauses, or phrases can be declared unconstitutional or void.

RULE 2: ORGANIZATION AND ADMINISTRATIONS

- 2.01 RESPONSIBILITIES OF THE CIVIL SERVICE COMMISSION:**
- (A) Prescribe, amend, repeal, and enforce the Rules of the Civil Service Commission;

- (B) Investigate the enforcement and effectiveness of the Rules as needed;
- (C) Consider the legitimacy of and hear appropriate disciplinary appeals initiated by individuals regarding actions taken on matters governed by Civil Service Ordinances; and
- (D) Conduct grievance hearings specified in County Regulations or applicable Memoranda of Understanding

2.02 OFFICERS OF THE CIVIL SERVICE COMMISSION

- (A) **Election:** The Civil Service Commission shall elect one of its members to serve as Chairperson and another member to serve as Vice-Chairperson at the first regular meeting of each year. The incumbent Chairperson and Vice-Chairperson shall hold office until their respective successors are duly elected and qualified.
- (B) **Chairperson Duties and Authority:** The Chairperson shall preside at all meetings of the Commission, sign official documents of the Commission, and speak on behalf of the Commission when so authorized. During hearings, the Chairperson shall have the authority to rule on evidentiary objections and to issue orders to promote due process, fairness, and decorum during the proceedings.
- (C) **Vice-Chairperson – Duties and Authority:** In the absence of the Chairperson, the Vice-Chairperson shall perform all duties regularly performed by the Chairperson.

2.03 DIRECTOR OF HUMAN RESOURCES - DUTIES: The Director of Human Resources, under the general direction of the Commission, shall perform the following administrative functions:

- (A) Act as the executive officer for the Commission and be responsible for carrying out the decisions, instructions, and Rules of the Commission;
- (B) Furnish a recording secretary to the Commission who shall take minutes of all meetings of the Commission;
- (C) Prepare the budget for the operation of the Commission;
- (D) Administer the expenditure of funds appropriated for the Commission;
- (E) Schedule such hearings as may be required;
- (F) Receive all appeals and grievances on behalf of the Commission;
- (G) Make recommendations relative to matters of policy and amendments to these Rules; and
- (H) Perform other duties that may be assigned from time to time by the Commission.

2.04 REGULAR MEETINGS: The Commission shall hold regular quarterly meetings pursuant to a schedule set in its discretion. The Commission shall also hold such other meetings and hearings as may be required by the County's Administrative Code and other applicable laws. The Commission, through its chair, may cancel or reschedule meetings if there is no scheduled business for the Commission, or for other good cause. Notice of the time and place of meetings, together with the agenda of such meetings, shall be posted at least 72 hours before a meeting and according to law on the Board of Supervisors official bulletin board.

2.05 SPECIAL MEETINGS: A special meeting may be called at any time by the Chairperson, or by a majority of the commissioners, by delivering written notice to each member of the Commission and to each local newspaper of general circulation and radio or television station requesting notice in writing. The notice shall be delivered

personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the Commission. The call and notice shall be posted at least 24 hours prior to the special meeting on the Board of Supervisors official bulletin board

2.06 PUBLIC MEETINGS: All meetings of the Commission shall be open to the public, and all persons shall be permitted to attend any meeting of the Commission, except as provided in these rules, or as otherwise provided by law.

2.07 CLOSED SESSIONS: During a disciplinary appeal or grievance hearing, the Commission shall adjourn to a closed session upon conclusion of testimony to consider the evidence and testimony presented and render a decision. The Commission may also adjourn to closed session at any time under circumstances which are otherwise lawful under the Brown Act.

2.08 QUORUM: Three members of the Civil Service Commission shall constitute a quorum, and a quorum shall be necessary for the transaction of business. No formal action shall be taken by the Commission unless it is adopted by the concurring votes of a majority of those Commission members attending a meeting where a quorum is present. A roll call vote may be requested by a Commissioner on any matter before the Commission.

2.09 COMMUNICATIONS: Communications and requests to the Commission, insofar as practicable, shall be in writing. The substance of each request and the action of the Commission thereon shall be noted in the minutes.

2.10 MINUTES: The Executive Officer to the Commission shall maintain minutes of its administrative meetings. Hearings of disciplinary appeals and grievances before the Commission shall be recorded by a stenographic reporter or other legal and sufficient means. All decisions and findings of fact in disciplinary or grievance hearings shall be entered in the Commission's minutes and shall be available in the Human Resources Office.

2.11 EFFECTIVE DATE: All Rules and amendments shall become effective immediately upon adoption unless some later date is specified by the Commission.

RULE 3: HEARINGS OF THE CIVIL SERVICE COMMISSION

3.01 HEARINGS OF THE CIVIL SERVICE COMMISSION:

- (A) **Disciplinary Appeal:** Unless an agreement is made to set a specific date for hearing, within ~~forty-five (45)~~ calendar days after filing a disciplinary appeal with the Director of Human Resources, the Commission shall commence a hearing to determine whether the prior disciplinary decision shall be sustained, modified or revoked.
- (B) **Grievance Hearings:** Where an employee has selected the Civil Service Commission for the final resolution of a grievance matter, the Commission shall, within forty-five (45) calendar days of the filing of such grievance appeal with the Director of Human Resources, ~~and receipt of a written answer from the appropriate County management authority,~~ decide the case or commence a hearing for the purpose of determining the validity of the charges made.

(C) **Case Management Conferences:** Within five (5) days of receiving any appeal or grievance invoking the Commission's jurisdiction, the Director of Human Resources or his or her designee shall send out a notice scheduling a case management conference. The case management conference shall be scheduled at the earliest reasonable opportunity, and no later than fourteen (14) days after the filing of an appeal or grievance. The Case Management Conference may be scheduled beyond 14 days by mutual agreement, or by the Commission's counsel / designee if circumstances so warrant. All or part of the case management conference may be conducted by telephone or other electronic means if each participant in the conference has an opportunity to participate in and to hear the entire proceeding while it is taking place. The following persons shall participate in the conference: (a) counsel for any represented party before the Commission; (b) if unrepresented, the party or parties before the Commission; (c) the Director of Human Resources or his or her designee; ~~and~~ (d) the Commission's counsel and/or other Commission designee; (e) the Department Head or their designee, and/or the appellant, may also participate in the conference . All parties must be prepared to discuss the following matters: (1) the nature of the appeal or other hearing; (2) the estimated length and schedule of the hearing; (3) the specific relief being sought; (4) the facts and issues that are in dispute; (5) the facts and issues that are uncontested and may be subject to stipulation; and (6) any anticipated problems or unusual concerns regarding the hearing, including any existing or anticipated evidentiary disputes. The participants may also ~~explore settlement possibilities and~~ discuss any other matters as shall promote the orderly and prompt conduct of the hearing. Following the case management conference, the Commission's counsel and/or designee will memorialize and send to all parties

a memorandum confirming the outcome of the conference, including any agreements made concerning the conduct of the upcoming hearing. The Director of Human Resources will then promptly assign a hearing date for the appeal.

(D) Rights of Parties at Hearings: At the hearing of an appeal or a grievance, the Appellant or Grievant, the appointing authority, Human Resources Department staff, and any other person(s) whom the Commission determines to have a legitimate interest in the matter shall be entitled to:

- (1) Be represented by legal counsel or otherwise represented at such hearings;
- (2) Testify under oath;
- (3) Question under oath any witness or other persons involved in or related to the matter being considered that the Commission deems relevant;
- (4) Present such affidavits, exhibits, and other evidence that the Commission deems relevant to the hearing;
and
- (5) Argue his/her case.

(E) Assistance of Counsel: The Commission's appointed legal counsel, if requested to do so by the Commission, may be present during all phases of a disciplinary or grievance hearing, including the deliberations of the Commission following the presentation of all evidence. The Commission's counsel shall, upon request of the Commission, make ~~preliminary~~ advisory rulings on the admission and exclusion of evidence, and advise the Commission on matters of law; the Commission itself shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to its appointed legal counsel.

(F) Closed Hearings: The Commission shall receive and rule on requests for closed hearings subject to Rule 2.07.

(G) Burden of Proof: In disciplinary appeal hearings, the burden of proof shall be on the disciplining authority. In grievance hearings and other types of hearings, the burden of proof shall be on the Appellant. The Commission uses the “preponderance of evidence” standard. In disciplinary appeal hearings, the disciplining authority shall first present his/her evidence and then the employee appellant may present his/her evidence. Each party shall then have the right to present evidence in rebuttal. In grievance hearings, the employee filing the grievance shall first present evidence of the charges alleged. The person charged and/or the department head of the department in which the alleged violations occurred may then present evidence. Each party shall then have the right to present rebuttal evidence.

(H) Evidence: Hearings shall not be conducted according to the technical rules of evidence for formal court proceedings, except as hereinafter provided. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a material finding unless it would be admissible over objection(s) in civil actions. Oral evidence shall be taken only on oath or affirmation. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing. The Commission has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time

- (I) **Witnesses:** During hearings, the Commission may exclude from the public or closed meeting any or all witnesses in the matter being considered by the Commission; provided, however, that appellants shall have the right to have one representative, even if the representative is also a witness.
- (J) **Professionalism:** Persons appearing before the Commission shall conduct themselves in a professional and respectful manner. In instances of inappropriate behavior or misconduct, the Chair may issue warnings and, finally, an opportunity for a last chance. If the offending person party violates the Chairperson's last chance order, the Commission may vote to impose sanctions, including without limitation exclusion of certain evidence, and/or dismissal of the appeal (if the offending party is the appellant) or sustaining the appeal (if the offending party is a County representative).
- (K) **Findings and Decisions:** After hearing the appeal, grievance or other action, the Commission shall:
- (1) Adjourn to closed session to deliberate before arriving at or rendering its decision in the matter;
 - (2) The Commission, being governed by a preponderance of evidence, may affirm, revoke, or modify the existing order, action, or ruling. The Commission may direct necessary corrective action to be taken (within the scope of its jurisdiction) once it has made a ruling. A decision of the Commission shall be determined by a vote of the majority of those members of the Commission present at the hearing where a quorum is present. In the event of a tie vote in a grievance hearing, the grievance shall be dismissed. In the event of a tie vote in an appeal hearing, the discipline imposed shall not be affirmed. At the conclusion of the deliberations, the Commission shall reconvene into open

session to report any action taken in closed session as required by law. The Commission (and/or its designee) may prepare formal findings and conclusions. Notice of the results of the hearing shall be mailed promptly to the appellant, grievant, and other persons deemed to have an interest in the proceedings.

- (L) **Report of Hearings:** Hearings of disciplinary appeals and grievances shall be recorded by a certified court reporter or other legal and sufficient means.
- (M) **Continuances:** It is the policy of the Commission that continuances are strongly discouraged~~disfavored~~. The Chairperson of the Commission may grant a continuance of a hearing upon an affirmative showing of good cause by a party which necessitates continuation of the hearing. A continuance shall not be granted unless the party seeking the continuance has made a good faith effort to prevent the condition or event upon which they are making their request for a continuance. Requests for continuances made less than two weeks (i.e., 14 calendar days) prior to a scheduled hearing date shall ordinarily be denied.
- (N) **Waiver of Time:** The time requirements for setting a disciplinary appeal hearing and/or a grievance hearing may be waived provided all parties to the action enter into a waiver of such requirements.
- (O) **Subpoena of Witnesses:** Production of Records:
 - (1) Any expense incurred in the subpoena of witnesses shall be paid by the party which requests the presence of those witnesses.
 - (2) Normally, each party may subpoena no more than ten (10) witnesses. The Commission will consider a request to subpoena more than ten (10) witnesses if a

party can demonstrate to the Commission all of the following:

- (a) That testimony of the additional witness is relevant and material evidence pertaining to the action; and
 - (b) Such evidence cannot be produced through means of a stipulation as to the testimony proposed to be introduced; and
 - (c) Such evidence is not merely duplication of other evidence.
- (3) All written subpoenas for witnesses shall bear the signature of the Chairperson, Vice-Chairperson, or Executive Officer of the Commission.
- (4) A Subpoena Duces Tecum may also require a person to produce at the hearing all books, papers, and documents in his/her possession or under his/her control relating to the hearing. All applications for a Subpoena Duces Tecum shall:
- Include a statement showing good cause for the production of the records requested;
 - Specify the exact records to be produced;
 - Set forth in full detail the materiality to the issues involved in the hearing; and
 - State that the person from whom they are seeking records has the desired records in his/her possession and under his/her control.

If a person wishes to object to the validity or scope of the subpoena, he/she may do so before the Commission at the time and place set for the hearing.

RULE 4 – MISCELLANEOUS

4.01 “DAYS” Unless otherwise specified, a “day” shall mean a working day in which the County's main administration office is open for business.