

2.16 Ord
11/07/17

**THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES
ORDAIN AS FOLLOWS:**

Section 1. The Board of Supervisors finds and determines that amendments to Chapter 2.16 of Title 2 entitled “Civil Service System” are necessary to update the El Dorado County Ordinance Code to reflect updated practices and Personnel Rules adopted by the Board of Supervisors.

Section 2. Chapter 2.16 of Title 2 of the El Dorado County Ordinance Code is hereby amended as follows:

CHAPTER 2.16. - CIVIL SERVICE SYSTEM

Sec. 2.16.010. - Title.

This chapter shall be known and may be referred to in all proceedings as the County Civil Service Ordinance.

(Prior Code, § 4201; Code 1997, § 2.60.010)

Sec. 2.16.020. - Purpose.

The ordinance from which this chapter is derived is enacted pursuant to the provisions of the County Civil Service Enabling Law (Government Code § 31100 et seq.) for the purpose of enacting a limited civil service system for the County.

(Prior Code, § 4202; Code 1997, § 2.60.020)

2.16.025 Application of Chapter.

This chapter shall apply to all positions within the classified service, as defined in the Charter or by the board of supervisors consistent with the Charter.

Sec. 2.16.030. - Commission—Established.

There is established a Civil Service Commission (hereafter “Commission”) for the County. The Commission shall consist of five members appointed by the Board of Supervisors from among those qualified electors of the County who are not employees or officers of the County.

(Prior Code, § 4203; Code 1997, § 2.60.030)

Sec. 2.16.040. - Same—Meetings and Compensation.

A. The Civil Service Commission shall ~~may~~ hold regular meetings on the first Tuesday of November, February, May and August for organizational purposes during the first quarter of each year, and shall meet at such times as shall be necessary to conduct hearings required by section 2.16.080, and shall hold meetings as may be determined by the Commission and the Department of Human Resources and such hearings as may be required by Section 2.16.080. The Commission shall ~~by resolution adopt~~ recommend for adoption by the Board of Supervisors such rules of procedure as it deems advisable ~~to~~ for the orderly conduct of its business.

B. Members of the Commission shall receive the sum of \$100 per meeting attended in person, and \$25 for meetings attended by telephone. Members shall also be provided lunch for meetings that are scheduled over the normal lunch period. Members shall also be reimbursed for reasonable traveling expenses from their place of residence to the place of meeting of the Commission and return, upon submission of such documentation as may be reasonably required by the County Auditor's Office.

(Prior Code, § 4204; Code 1997, § 2.60.040)

Sec. 2.16.050. - Length of service required to qualify.

Civil service status shall not attach to any County employee with respect to any particular salary classification unless or until he or she has been continuously employed in such classification for a period of one year the total period of time equal to the probationary period specified in the applicable memorandum of understanding or Board-approved resolution for the employee's original classification. In the event a County employee is promoted, voluntarily demotes, or voluntarily transfers to a higher salary range related classification, his or her civil service status shall attach to his or her original salary classification when he or she has been continuously employed in the original classification and the promoted subsequent classification for a total of one year the total period of time equal to the probationary period specified in the applicable memorandum of understanding or Board-approved resolution for the employee's original classification.

(Prior Code, § 4205; Code 1997, § 2.60.050)

Sec. 2.16.060. - ~~Exempt employees~~Exclusions.

Except as otherwise provided by law, Tthe following persons are ~~not subject to the civil service rules in~~ part of the unclassified service and are not subject to the provisions of this chapter:

- A. Elected County officers;
- B. ~~Appointive~~ Appointed department heads ~~as designated by Section 2.14.010;~~

- C. All appointed boards, committees, and commissions;
- D. All persons serving without compensation;
- E. Casual patient and inmate employees at County institutions;
- ~~F. Extra help or provisional employees;~~
- ~~GF. The following administrative personnel charged with making policy decisions:~~
 - ~~1. Undersheriff, provided with the exception that employees in this position who have previously held classified positions in the Sheriff's Department with the County and have the right to return to the classified service as provided by Section 2.16.065 Article V, Section 502.1 of the El Dorado County Charter may not be considered exempt employees;~~
 - ~~2. Assistant Director of Health and Human Services Agency;~~
- ~~HG. Any person holding a confidential position to each member of the Board of Supervisors;~~
- ~~H. Persons employed to render professional, scientific, technical or expert services on a temporary basis for a specific project;~~
- ~~II. Persons covered under State merit systems;~~
- ~~J. Persons employed as independent contractors;~~
- K. Persons otherwise excluded by operation of law.

(Prior Code §4206; Code 1997, § 2.60.060; Ord. No. 4549, 2-1-2000; Ord. No. 4996, § 2(2.60.060), 4-30-2013)

Sec. 2.16.065. - Return to civil service status; Undersheriff, ~~Assistant Sheriff.~~

- A. An employee in the classified service who is appointed to the exempt position of Undersheriff shall, in the event the current Sheriff at such time leaves office or determines the services of the incumbent no longer meets the need of the department, have a right of return to the classified service subject to the following:
 - 1. A request for return to a former classified civil service position must be made in writing to the Chief Administrative Officer within 15 regular County business days from the date the Sheriff leaves office or determines the services of the incumbent no longer meets the needs of the department. If no timely written request is made, the right to return is lost and the employee shall be separated from service.
 - 2. The right to return shall be to the same department and to the same classification from which the employee was promoted.
- B. Nothing in this section modifies or alters the power of the appointing authority to terminate an employee from the position of Undersheriff at any time with or without notice or cause as an "at-will employee."

(Code 1997, § 2.60.065; Ord. No. 4562, 8-22-2000)

Sec. 2.16.070. - Reserved. Hiring Procedures. Procedures for hiring county employees and for review of their qualifications shall be as set forth in personnel rules adopted by the Board of Supervisors.

Sec. 2.16.080. - Dismissal, suspension and demotion procedures.

- A. Any officer or employee in the classified civil service may be dismissed, suspended without pay ~~for 11 or more working days~~ or reduced in rank or compensation by the appointing authority after appointment or promotion is completed by giving notice and proceeding in accordance with the provisions of this section.
- B. The officer or employee shall be provided a written notice not less than ten working days prior to the effective date of the intended action notifying the officer or employee of the proposed action and the effective date thereof, stating specifically the reasons for the action and advising the employee the location of all written materials, reports, and documents relating to the matter, and that the documents are available to the employee or his or her representative for inspection. Within the ten-day period, the employee has the right to respond to the department head about the allegations contained in the notice. ~~The response shall be in writing on a form prepared by the County personnel office, together with any additional information that the employee may wish to submit. The response form shall be provided to the employee with the notice of intended action.~~
- C. After the ten-day period provided in Subsection B of this section, if the employee has failed to respond, or if the department head determines to proceed with the intended action or some further action, after having considered the response by the employee, the department head shall issue an order sustaining the action to be taken and the specific reasons therefor. The order may refer to the notice of intended action ~~as to the action to be taken and the reasons therefor~~. The order shall be filed with the ~~Personnel~~ Director of Human Resources and a copy thereof shall be provided to the person subject to the action.
- D. ~~The officer or employee may reply in writing to the order within ten days from the date of its filing with the Personnel Director.~~ Within ~~five~~ ten (10) working days after presentation to ~~him or her~~ of the order to the officer or employee, the officer or employee may appeal from the order through the ~~Personnel~~ Director of Human Resources to the Civil Service Commission. Upon the filing of the appeal, the ~~Personnel~~ Director of Human Resources shall forthwith transmit the order and appeal to the Civil Service Commission for hearing.
- E. Within 20 days from the filing of the appeal, the Commission shall commence a hearing and either affirm, modify or revoke the order. The appellant may appear personally, produce evidence and have counsel. ~~The appellant may have and~~ a public hearing.
- F. The findings and decision of the Commission shall be certified to the department head or officer whose action was the subject of the hearing and forthwith enforced and followed by him or her.
- G. When a department head determines that an act or omission of an employee warrants immediate removal of the employee from his or her assigned duties, the employee may be suspended immediately and without pay for three working days or less according to the

provisions of this section, except that the written notice required in Subsection B of this section shall be provided during the suspension or within five working days thereafter. Otherwise, all provisions of this section shall apply.

(Prior Code, § 4208; Code 1997, § 2.60.080; Ord. No. 3807, § 1, 1988)

Secs. 2.16.090, 2.16.100. - Reserved.

Sec. 2.16.110. - Amendment and repeal.

No ordinance repealing or amending this chapter which nullifies the basic principles of the civil service system contemplated by this chapter and the County Civil Service Enabling Law shall be effective unless a proposition of such repeal or amendment shall have been submitted to an election and approved by a majority vote of the electors voting on the proposition.

(Prior Code, § 4211; Code 1997, § 2.60.110)

Sec. 2.16.120. - Subpoenas.

- A. The ~~County Civil Service~~ Commission shall have the power to issue subpoenas and subpoenas duces tecum and compensate persons subpoenaed.
- B. This power shall be exercised and enforced in the same manner as the power granted in Article 9 of Chapter 1 of Part 2 of Division 2 of the Government Code (Government Code § 25170 et seq.), except that the power shall extend only to matters within the Commission's lawful jurisdiction, and that committees of the Commission shall not have this power.
- C. Witnesses subpoenaed by the Commission shall be paid fees in the same amount and in the same manner as provided for in Government Code § 68094.
- D. Subpoenas shall be signed by the Chair or Secretary of the Commission.
- E. Any member of the Commission or any member otherwise so empowered may administer oaths to, or take affirmations from, witnesses before the Commission.

(Prior Code, § 4212; Code 1997, § 2.60.120)

Sec. 2.16.130. – Reserved. ~~Grievance procedure.~~

~~A. *Definition, scope and right to file.* A grievance is a claimed violation, misinterpretation, inequitable application or noncompliance with provisions of a memorandum of understanding, or of County ordinances, resolutions, rules, regulations or existing practices affecting the status of working conditions of County employees, except that individual personnel actions within the purview of this Code are not grievances within the meaning of this policy.~~

~~B. *Informal grievance.*~~

- ~~1. Within five working days of the event giving rise to a grievance, the grievant shall present the grievance informally for disposition by the immediate supervisor, or at any appropriate level of authority.~~
- ~~2. If the grievant believes the grievance has not been redressed, he or she must present it to his or her department head for disposition.~~
- ~~3. Presentation of an informal grievance shall be prerequisite to the institution of a formal grievance.~~

~~C. Formal grievance.~~

- ~~1. Initiation. If the grievant believes that the grievance has not been redressed within five working days, he or she may initiate a formal grievance within five working days thereafter. A formal grievance can only be initiated by completing and filing with the personnel office a form provided by the County Administrator for this purpose. The form shall contain:
 - ~~a. Name of grievant;~~
 - ~~b. Class title;~~
 - ~~c. Department;~~
 - ~~d. Mailing address;~~
 - ~~e. A concise statement of the nature of the grievance (citing applicable ordinances, rules or regulations or contract language);~~
 - ~~f. The date upon which the grievance occurred;~~
 - ~~g. A proposed solution to the grievance;~~
 - ~~h. The date of execution of the grievance form;~~
 - ~~i. The signature of the grievant;~~
 - ~~j. The name of the organization, if any, representing the grievant, followed by the signature of the organization's representative.~~~~
- ~~2. Step one. Within ten working days after a formal grievance is filed, the department head shall investigate the grievance and confer with the grievant in an attempt to resolve the grievance and make a decision in writing.~~
- ~~3. Step two:
 - ~~a. If the grievance is not resolved in step one to the satisfaction of the grievant, he or she may, within not more than five working days from his or her receipt of the department head's decision, request consideration of the grievance by the County Administrator, by so notifying the personnel office in writing.~~
 - ~~b. Within ten working days after the notification, the County Administrator shall investigate the grievance, confer with persons affected and their representatives to the extent he or she deems necessary and render a decision in writing.~~~~

- ~~c. If the decision of the Administrator resolves the grievance to the satisfaction of the grievant, it shall bind the County, subject to ratification by the Board of Supervisors, if the decision requires an unbudgeted expenditure.~~
- ~~d. If the decision of the Administrator does not resolve the grievance to the satisfaction of the grievant, he or she shall advise the grievant, in writing, of the decision and the alternatives under step three should the grievant choose to proceed further.~~

~~4. Step three.~~

- ~~a. A final appeal to step three may be filed, in writing, with the personnel office not more than five working days from the grievant's receipt of the Administrator's decision. The grievant may, to the extent provided in this subsection, select either alternative A or alternative B as the final appeal step.~~
- ~~b. Alternative A. The grievance shall be determined by the Civil Service Commission. The decision of the Commission shall be made in writing within 30 calendar days after the filing of the appeal and shall be final and binding on all parties, subject to ratification by the Board of Supervisors if the decision requires an unbudgeted expenditure.~~
- ~~c. Alternative B. Provided that:
 - ~~i. The County Administrator and the grievant agree on the issues to be arbitrated;
or~~
 - ~~ii. The grievance pertains to the specific terms of any existing memorandum of understanding;

the grievance shall be determined by an arbitrator selected by mutual agreement between the County and the grievant. The decision of the arbitrator shall be final and binding on all parties, subject to ratification by the Board of Supervisors if the decision requires an unbudgeted expenditure.~~~~

~~D. General conditions.~~

- ~~1. The personnel office shall act as a central repository for all grievance records.~~
- ~~2. Any time limit may be extended only by mutual agreement in writing.~~
- ~~3. An aggrieved employee may be represented by any person or organization of his or her choice at any stage of the proceedings. A representative of an organization certified to represent a majority of employees is a representation unit, in which an aggrieved employee is included, is entitled to be present for all meetings, conferences and hearings.~~
- ~~4. All expenses of arbitration shall be shared equally by the County and the grievant.~~
- ~~5. Failure on the part of the County or the grievant to appear in any case before the Civil Service Commission, or an arbitrator, without good cause, shall result in forfeiture of the case and responsibility for payment and of all costs of arbitration.~~

(Prior Code, § 4213; Code 1997, § 2.60.130)

Section 3. This ordinance shall take effect and shall become effective thirty (30) days following adoption hereof.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the _____ day of _____, 2016 by the following vote of said Board:

Ayes:

ATTEST
JAMES S. MITRISIN
Clerk of the Board of Supervisors

Noes:
Absent:

By _____
Deputy Clerk

Chair, Board of Supervisors

APPROVED AS TO FORM
MICHAEL J. CICCOTZI, County Counsel

By _____
XXXXXXXXXXXXXX
XXXXXX County Counsel

I CERTIFY THAT:
The foregoing instrument is a correct copy
of the original on file in this office

Date _____
ATTEST: JAMES S. MITRISIN,
Clerk of the Board of Supervisors of the
County of El Dorado, State of California.