

MONROE COUNTY SHERIFF'S OFFICE

General Order

CHAPTER: 24		TITLE: Career Service Provisions
EFFECTIVE DATE: November 30, 2015	NO. PAGES: 3	REVIEWED/REVISED: November 23, 2015
REFERENCE:		RESCINDS:

I. PURPOSE

The purpose of this chapter is to make the text of the MCSO Career Service Bill easily accessible to all members.

II. MCSO Career Service Bill

The Monroe County Sheriff's Office Career Service Bill (Florida General Law, Chapter 97-345, House Bill 1103), states:

Section 1. (1) **APPLICABILITY** – The terms of this act shall apply to the “classified service” of the Monroe County Sheriff's Office, which shall include all Certified Deputy Sheriffs, Certified Correctional Officers, and Noncertified Support Staff of the Monroe County Sheriff's Office. The provisions of this act shall not include the Sheriff or Undersheriff, Finance Director, Human Resource Director, Information Management Director, General Counsel, personnel holding the rank of Captain or above, contract personnel, nonsalaried personnel, any Special Duty Sheriff appointed pursuant to s. 30.09(4), Florida Statutes, members of the Sheriff's Posse or Auxiliary Unit, or any person appointed as a part-time Deputy Sheriff, as defined by the Criminal Justice Standards and Training Commission, unless such person is also employed on a full-time basis by the Office of the Sheriff. It is not, however, the intent of this act to grant the right of collective bargaining to persons in the employ of the Monroe County Sheriff's Office who do not otherwise have the right pursuant to law or an expectation of continued employment except as otherwise expressly stated herein.

(2) PROBATIONARY STATUS AFTER HIRING AND PROMOTION –

- (a) After a member of the classified service of the Sheriff's Office has been employed for a period of one calendar year, the member shall have attained permanent status in the office of the sheriff and shall be entitled to appeal disciplinary action as set forth herein. However, if any member separates from the office and is rehired at a later date, the member shall be required to complete one calendar year of service from the date of separation before being granted the right of appeal herein.
- (b) When a member is promoted to a higher rank within the office, there shall be a probationary period of six consecutive months of service in the higher position. In the event that the member does not satisfactorily complete the promotional probation, the member shall be returned to the ranks from which the member was promoted, provided that the member was regularly appointed to said position.

(3) **RIGHT OF APPEAL** – Any member of the classified service as defined in section 1 hereof shall have the right to appeal any suspension without pay for a period of more than 40 hours, demotion or termination, provided however, that there shall be no right of appeal hereunder when the suspension, demotion or termination is based upon conduct for which probable cause exists to believe that a felony

under the law of the United States or America or the State of Florida, or a misdemeanor involving perjury, false statement or controlled substance has been committed.

4 (a) PROCEDURE FOR APPEALS – The appeal shall be to the Disciplinary Review Board, consisting of five members, all of whom shall be members of the classified service of the Monroe County Sheriff's Office. The board shall be selected as follows:

1. The appealing member shall select two members;
2. The Sheriff shall select two additional members; and
3. The four members thus selected shall select, by majority vote, a fifth member who shall serve as chairperson.
4. None of the board members shall be involved in the investigation of, a witness to, or involved with the disciplinary procedure that is cause for this appeal, nor shall any board member be a family member of the appealing member of the sheriff.

(b) Any member desiring to appeal any disciplinary action described in subsection (3), must deliver written intent of his or her intent to do so to the Sheriff, his or her Executive Assistant, or the Undersheriff within ten calendar days after receiving written notice of the disciplinary decision. The notice must contain the names of the member's two appointments to the Disciplinary Review Board and a brief statement of the reasons for the appeal.

(c) The Sheriff must appoint his or her representatives to the Board within five calendar days after receipt of the member's notice of appeal described above.

(d) The four appointees to the Board must select by majority vote, a fifth person who shall serve as chairperson. The Board must set a place, date and time for the hearing within ten calendar days after receipt of the Sheriff's selection of his representatives. The hearing must be conducted within thirty days of the selection of the chairperson, unless a four-fifths majority of the board agrees to a later date.

(d) If a chairperson is not selected within ten calendar days after the appeal is requested, the four appointees shall notify the Sheriff, who shall furnish a list of fifteen names of members of the classified service chosen at random. The four appointees shall, within five days of receipt of the list, vote in turn on each of the fifteen named members. The first selected by majority vote shall serve a chairperson.

- (e) In the event the appealing member or the Sheriff wishes to challenge the appointment of one of the Board members for reasons specified in subsection (4)4;
1. The challenging party must, within five calendar days of the first appointment of the Board members, present a written objection to the Human Resources Division.
 2. The appointed Board members shall be advised of the objection, and the rest of the Board shall, within five calendar days of being so advised, consider the objections and vote on whether to retain or dismiss the challenged Board member. The challenged member may not vote on the challenge to his or her appointment. The challenge shall be decided by a majority vote. The vote may be conducted in writing, by conference call, electronic mail, or through any other method approved by the Board.
 3. Upon a decision to dismiss a Board member, the challenged member shall be removed and the remaining members of the Board shall appoint a successor, who must be a member of the classified service.

(5) CONDUCT OF APPEALS HEARING –

- (a) The hearing shall be open to the public and conducted by the chairperson.
- (b) The hearing shall be conducted in a manner to assure fundamental fairness, although the formal rules of evidence shall not apply.
- (c) The Sheriff has the burden of proving the appropriateness of the disciplinary action by the preponderance of the evidence. The Sheriff or his designee may present the case. If a designee presents the case for the Sheriff, he or she must be a member of the classified service.

- (d) The appealing member shall have the right to present his or her own case, to explain or defend his or her position, and to cross-examine each witness or complainant.
- (e) The appealing member may have the assistance of one person chosen from the classified service to assist in the presentation. This representative may examine or cross-examine witnesses, address the board, or present argument. The member may have others to assist in the preparation, but these persons may not examine or cross-examine witnesses, address the board, or present argument.
- (f) The Sheriff shall require the presence at the hearing of any member of the office who the appealing member desires to question or present evidence.
- (g) The Sheriff or appealing member may offer rebuttal evidence, and the board may hear argument from both parties in support of their positions.
- (h) At the conclusion of the hearing the Board shall retire to consider its decision. The decision must be made by a majority vote of its members.
- (i) The decision shall be in writing and shall be rendered within three calendar days after the conclusion of the hearing. This period may be extended by a majority vote of the Board. The decision to extend the time for deciding appeals shall be in writing.
- (j) The Board may accept, reject, increase or decrease the disciplinary recommendation that was the cause for the appeal.
- (k) The Board's decision shall be final and binding upon the Sheriff and the appealing member.

(6) AVAILABILITY OF NON-BINDING BOARD; FAVORABLE RESOLUTION OF MATTERS INVOLVING CRIMINAL CONDUCT –

- (a) In the event that a member of the classified service is disciplined as described in subsection (3) but is not entitled to an appeal as set forth therein due to the existence of probable cause that criminal conduct has occurred, he or she shall nonetheless be entitled to have the disciplinary action reviewed in the manner set forth in this section.
- (b) Within ten calendar days of the final resolution by acquittal, dismissal, or filing by the prosecuting authority of decision not to file charges, the appealing member shall notify the Sheriff in the manner set forth in subsection (4).
- (c) The procedure shall thereafter be as set forth in subsection (4) except that the Board's decision shall not be binding upon the Sheriff but advisory only.

(7) CONTINUED APPOINTMENT - When a newly elected or appointed Sheriff assumes office, the service of all personnel shall continue without necessity of formal reappointment. The incoming Sheriff shall have the option of maintaining the current personnel assigned to the rank of Captain and above or equivalent noncertified support positions or transferring those personnel as described below. If the incoming Sheriff fills any of the above position with a new person, the former holder of that position may be reduced in the rank to a position no lower than lieutenant or equivalent noncertified support position, and his or her salary reduced accordingly. Any member demoted pursuant to this subsection shall be a member of the classified service immediately upon the assumption of the new position.

(8) POSITION ELIMINATION – Nothing in this act shall prohibit the Sheriff from eliminating positions in the course of submitting the annual budget as required by x. 80.49, Florida Statutes. Any position so eliminated may not be replaced during the following fiscal year. The elimination of positions shall be made with due regard to the seniority of members of the Sheriff's Office.