

JEFFERSON COUNTY DEPUTY SHERIFF MERIT BOARD



RULES AND REGULATIONS

Pursuant to House Bill 52 of the 1998 Commonwealth of Kentucky General Assembly, I hereby certify this document to be a true copy of the Rules and Regulations of the Jefferson County Deputy Sheriff Merit Board.


Merit Board Chief Examiner


Date

Approved:
June 9, 1999

Revised:
May 29, 2007
December 4, 2007
April 20, 2021

JEFFERSON COUNTY DEPUTY SHERIFF MERIT BOARD RULES AND REGULATIONS

TABLE OF CONTENTS

1. GENERAL PROVISIONS

1.1 AUTHORITY	4
1.2 SCOPE.....	5
1.3 POLICY OF NON-DISCRIMINATION.....	6
1.4 PROHIBITION ON POLITICAL ACTIVITIES.....	7
1.5 AMENDMENTS	8
1.6 DEFINITION OF TERMS	9
1.7 EFFECT ON DECLARATION OF INVALIDITY	10

2. MERIT BOARD OPERATIONS

2.1 MEMBERSHIP	11
2.2 OFFICERS, ELECTION AND DUTIES.....	12
2.3 MEETINGS	13
2.4 RECORDS AND FILES	14

3. TYPES OF DISCIPLINARY ACTION

3.1 DISCIPLINARY ACTIONS	15
3.2 DISCIPLINARY ACTION INITIATED BY THE SHERIFF.....	16
3.3 DISCIPLINARY ACTION INITIATED BY THE BOARD.....	17
3.4 DISCIPLINARY ACTION INITIATED BY CITIZEN COMPLAINT	18

4. HEARING PROCEDURES

4.1 GENERAL COVERAGE	19
4.2 HEARING REQUESTS; DOCKETING	20
4.3 CHARGES BROUGHT BY BOARD OR CITIZEN	22
4.4 PREHEARING MOTIONS	23
4.5 DISCLOSURE AND EXCHANGE OF WITNESSES AND DOCUMENTS	24
4.6 OBJECTIONS TO EXHIBITS.....	25
4.7 STIPULATIONS	26
4.8 ORDER OF PROCEEDINGS; EVIDENCE	27
4.9 WITNESSES	28
4.10 ARGUMENTS AND STATEMENTS	29
4.11 HEARINGS TO BE STENOGRAPHICALLY RECORDED.....	30
4.12 SUBPOENAS	31
4.13 EVIDENCE NOT PERMITTED; EXCEPTIONS	32
4.14 DELIBERATIONS AND DECISIONS OF THE BOARD	33

TABLE OF CONTENTS (cont.)

5. APPLICATION AND SELECTION FOR EXAMINATION

5.1 RECRUITMENT	34
5.2 ANNOUNCEMENTS	35
5.3 APPLICATIONS	36

6. EXAMINATIONS

6.1 CHARACTER OF	41
6.2 ADMISSION	42
6.3 PHYSICAL AND MEDICAL	43
6.4 ADMINISTRATION	44
6.5 PROMOTIONAL	45
6.5 PROMOTIONAL (cont.)	46
6.6 ERRORS IN GRADING	47
6.7 POSTPONEMENT OR CANCELLATION	48
6.8 PASSING-POINT SCORES	49
6.9 NOTICE OF TEST RESULTS	50
6.10 RESULTS OF FAILING	51
6.11 AVAILABILITY FOR APPOINTMENT	52

7. ELIGIBILITY LISTS

7.1 GENERAL PROVISIONS	53
7.2 OPEN COMPETITIVE	54
7.3 PROMOTIONAL	56
7.4 REINSTATEMENT	57
7.5 RECALL FROM LAYOFF	58
7.6 LATERAL TRANSFER	59
7.7 REMOVAL OF NAMES	60

8. APPOINTMENT

8.1 REQUISITION	61
8.2 CERTIFICATION	62
8.3 TYPES OF APPOINTMENTS	63

9. PROBATION

9.1 PURPOSE	66
9.2 DURATION	67
9.3 TERMINATION AND COMPLETION OF PROBATIONARY PERIOD	68
9.4 REMOVAL DURING PROBATION	69
9.5 EFFECT OF SEPARATION	70
9.6 EFFECT OF REASSIGNMENT	71

1. GENERAL PROVISIONS

1.1 AUTHORITY

These are the Rules and Regulations of the Jefferson County Deputy Sheriff Merit Board, the promulgation of which is authorized under Sections 70.260-.273 of the Kentucky Revised Statutes (KRS), directing the adoption of rules governing the conduct of disciplinary hearings, receipt and handling of citizen complaints, and the conduct of Board meetings, all related to the discipline of Deputy Sheriffs in the Jefferson County Sheriff's Office.

1.2 SCOPE

All sworn Deputy Sheriffs serving in the Jefferson County Sheriff's Office, unless excluded from the jurisdiction of the Board either by state law or Louisville/Jefferson County Metro Government Ordinance, shall be covered by these Rules. Examples of Deputy Sheriffs not subject to the coverage of these Rules and Regulations include, but are not limited to, those serving a probationary period during the first year of their service, or those serving in a policy-making or confidential position excluded from said coverage by ordinance ((see KRS 70.260(9)). The jurisdiction of the Board is restricted to matters pertaining to disciplinary actions against Deputy Sheriffs as authorized by state law (KRS 70.260-.273) and Louisville/Jefferson County Metro Government Ordinance (§36.35-36.42), as those statutes and ordinances may be amended from time to time.

1.3 POLICY OF NON-DISCRIMINATION

No person specified in and therefore protected by applicable anti-discrimination laws of the Federal Government, the Commonwealth of Kentucky or Metro Louisville shall be discriminated against in respect to any disciplinary action under the authority of the Board. This policy shall be applied in accordance with the Jefferson County Sheriff's Office Personnel Policies and its Equal Employment Opportunity and Affirmative Action Statement, as those documents may from time to time be amended.

1.4 PROHIBITION ON POLITICAL ACTIVITIES

- 1.4 (1) No Deputy Sheriff covered hereunder shall directly or indirectly solicit, receive, or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription or contribution to or for any political party or candidate for public office.

- 1.4 (2) No Deputy Sheriff covered hereunder shall be suspended, laid off, demoted, promoted, disciplined, threatened or in any way changed in duty or compensation for withholding or neglecting to pay or make contributions of any sort, either in money, goods, services, or anything of value for any political purpose.

- 1.4 (3) No Deputy Sheriff covered hereunder shall be a candidate for any public office, and any person who violates this provision shall immediately forfeit their position as a Deputy Sheriff.

- 1.4 (4) Nothing contained herein shall be construed to abridge the rights of any Deputy Sheriff with respect to their personal opinions, beliefs, or right to vote.

1.5 AMENDMENTS

- 1.5 (1) The Board may amend these Rules as it deems necessary.
- 1.5 (2) Amendments shall be proposed by a First Reading at any regularly scheduled meeting of the Board. At the next regularly scheduled meeting, the Board shall hold a Second Reading and vote on adoption of the proposed Amendments. Announcement of the Second Reading shall be made in writing to the Sheriff. The written announcement shall be posted at the headquarters and major work stations of the Jefferson County Sheriff's Office.
- 1.5 (3) At least three days shall elapse between First Reading of a proposed Amendment and the Second Reading and adoption of same.
- 1.5 (4) Approved Amendments to these Rules shall be announced in the same manner as provided for in Section 1.5(2), following receipt of approval of said Amendments from the Sheriff.
- 1.5 (5) Changes in grammar, spelling, punctuation, numbering and other such changes which do not alter the substantive meaning of these Rules and Regulations may be made by the Board, acting through its Chair. Notice of such changes shall be reported to the Board at its next regular meeting and announcement of the changes shall be distributed as provided in Section 1.5(2) above.
- 1.5 (6) Amendments to these Rules and Regulations shall not take effect until approved by the Sheriff.

1.6 DEFINITION OF TERMS

The following terms shall have the meaning given below as used in these Rules and Regulations, unless the context of their usage clearly indicates otherwise.

APPEAL TIME

In computing any period of time prescribed by these Rules in regards to an appeal either to or from the Board, if the day on which or by which the act is required to be done falls on a Saturday, Sunday, legal holiday, or a day on which the Sheriff's Office is closed, the act may be done on the next day which is not one of the days just mentioned.

BOARD

Shall mean the Jefferson County Deputy Sheriff Merit Board.

DISMISSAL

An involuntary separation of employment of a Deputy Sheriff from service in the Jefferson County Sheriff's Office.

EXHAUSTED

The state of an eligibility list when too few or no names remain on the list to provide the appointing authority with an adequate number for selection.

PROBATIONARY APPOINTMENT

Shall mean the first year of service as a sworn Deputy Sheriff in the Jefferson County Sheriff's Office.

REDUCTION

Demotion in grade or rank of a Deputy Sheriff serving in the Jefferson County Sheriff's Office.

SHERIFF

Shall mean the Jefferson County Sheriff and the Office of said elected official.

SUSPENSION

An involuntary leave of absence from service in the Jefferson County Sheriff's Office by a Deputy Sheriff.

1.7 EFFECT ON DECLARATION OF INVALIDITY

If any portion of these Rules or Regulations is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of these Rules and Regulations.

2. MERIT BOARD OPERATIONS

2.1 MEMBERSHIP

- 2.1 (1) The Board shall consist of five (5) members, two (2) members appointed by the Mayor with approval of the Metro Council, two (2) members appointed by the Jefferson County Sheriff, and one (1) member elected by the Deputy Sheriffs of Jefferson County. F.O.P Lodge 25 shall be responsible for organizing and conducting the election of the Deputy Sheriff representative on the Board. All full-time sworn Deputy Sheriffs covered by the Merit Board and on the Sheriff's payroll immediately preceding the date of the election shall be eligible to vote in any such election. Each Board appointee shall be at least thirty (30) years of age and a resident of the county. No person shall serve on the Board who is a Deputy Sheriff or who holds any elected public office. No person shall be appointed to the Board who is a member of the immediate family of the Jefferson County Sheriff, which includes the Sheriff's father, mother, brother, sister, spouse, son, daughter, aunt, uncle, son-in-law, and daughter-in-law. The members of the Board shall not receive a salary, but they shall receive reimbursement for necessary expenses upon submission of proper receipts and documentation for all such expenses.
- 2.1 (2) All appointments shall be for two (2) years, and any vacancies during a term shall be filled in the same manner in which the departing Board member was appointed or elected.
- 2.1 (3) The Board shall keep an accurate record of its proceedings through the preparation of findings and orders related to disciplinary hearings and minutes related to all other Board meetings.
- 2.1 (4) The Board shall meet when a disciplinary matter concerning a Deputy Sheriff is brought to its attention, or at other times at the discretion of the Board, upon notification to all its members pursuant to the Open Meetings Act (KRS 61.800-.850).
- 2.1 (5) Three (3) members shall constitute a quorum in all matters which may come before the Board, either at a regularly scheduled meeting or in a disciplinary hearing.

2.2 OFFICERS, ELECTION AND DUTIES

- 2.2 (1) The Officers of the Board, elected from its membership, shall be a Chair and a Vice-Chair who shall perform the duties of the Chair in his or her absence.
- 2.2 (2) The Board shall elect its Officers annually at the first regular meeting of the calendar year, and at any other time there is a vacancy in one of the offices. The Officers shall serve terms of one year, or in the event of an election to fill an Officer's unexpired term, for the duration of that term. The Officers may be re-elected to these offices.
- 2.2 (3) The Chair shall preside at meetings and hearings of the Board; review and sign the Minutes of meetings and the Board's Findings and Orders; issue subpoenas in the Board's name and administer oaths at hearings; insure that all Board records are maintained in a secure location; and, serve as the Board's official representative when so required.

2.3 MEETINGS

- 2.3 (1) The Board shall meet whenever a disciplinary matter concerning a covered Deputy Sheriff is brought to its attention, or at other times at the discretion of the Board, upon notification to all of its members.
- 2.3 (2) Business shall not be conducted at a Board meeting or hearing unless there is a quorum of the members of the Board present, and three Board members shall constitute a quorum.
- 2.3 (3) A majority of Board members present and voting shall determine any question, provided that a quorum is present.
- 2.3 (4) The Chair shall be responsible for having the minutes of all Board meetings prepared and submitted for approval at the next regular meeting of the Board. The minutes shall be signed by the Chair or by the Vice-Chair in the Chair's absence, and shall include copies of all materials considered by the Board at the meeting. The minutes shall be open to public inspection immediately following the meeting of the Board at which they are approved.
- 2.3 (5) At the conclusion of all disciplinary hearings, the Board shall retire into executive session to discuss and deliberate the evidence introduced at the hearing, and to make its determination as to the imposition of discipline or whether the action under review was justified and supported by proper and substantial evidence. In executive session, the Board shall not receive any further evidence or communication from any source, except for legal advice from its counsel, prior to reaching its determination and conclusion. Any final decision shall be presented on the record in open session, and said decision shall thereafter be supported by a written statement of facts and an appropriate order issued to all affected parties within a reasonable period of time.
- 2.3 (6) In its meetings, the Board shall be guided in its conduct by applicable Kentucky Revised Statutes; these Rules and Regulations; Robert's Rules of Order; Louisville/Jefferson County Metro Government Ordinance; and, the rulings of the Chair.

2.4 RECORDS AND FILES

- 2.4 (1) Unless otherwise provided for by law, all records and minutes of the Board's activities shall be considered public records pursuant to KRS 61.870 et seq (Open Records Act). The Board shall maintain a separate file for each disciplinary case to come before it, and such files shall be retained in accordance with the record retention policies established by the Board in consultation with the Jefferson County Sheriff.
- 2.4 (2) The Chief Examiner of the Merit Board shall be the custodian of all official records of the Board, or any other person so designated by the Chair may act in this capacity. Records shall be kept in a manner that shall ensure their confidentiality and integrity
- 2.4 (3) (a) All open records requests directed to the Jefferson County Deputy Sheriff Merit Board shall be in written form, addressed to the Chair of the Board in care of the Jefferson County Sheriff's office at:
- 531 Court Place, 7th Floor
Louisville, KY 40202
- All production of records shall be made at the direction of the Chair, with advice of Counsel, and pursuant to the Open Records Act.
- (b) Nothing contained herein shall be construed as an abrogation of the right of the Board to deny, in whole or in part, inspection of any record determined to be non-disclosable under the Open Records Act (KRS 61.870 et seq.). In the event of any such denial, the Board shall comply with the requirements of said Act.
- 2.4 (4) In the event a requestor desires to have photo copies made of Board records or documents, the fee for such copying shall be twenty-five cents per page.

3. TYPES OF DISCIPLINARY ACTION

3.1 DISCIPLINARY ACTIONS

- 3.1 (1) Oral Or Written Reprimand: a documented description of an employee's action or lack of action that is determined to be unacceptable. Both types of reprimands will be documented in written form and are to be filed in the recipient employee's official personnel file maintained by the Sheriff or Designee. Reprimands are not appealable to the Board. The recipient employee may make a written response to the reprimand within ten (10) days, which shall be included with the reprimand in the employee's personnel file.
- 3.1 (2) Suspension: a temporary loss of position, authority, and/or income resulting from a member's action or lack of action which is determined to be unacceptable.
- (a) Disciplinary suspensions for individual offenses may be for any length of time up to 50 working days.
 - (b) Suspensions shall become effective immediately upon notification by the Sheriff to the employee. The suspension must be served in consecutive days beginning no more than fourteen days after notification to the employee.
 - (c) Employees may not use vacation or any other accumulated leave benefits during the suspension.
 - (d) Employees who are suspended for more than 50 working days in any consecutive twelve-month period shall be dismissed.
 - (e) Disciplinary suspensions may be appealed to the Board.
- 3.1 (3) Demotion: a demotion of rank or grade and loss of commensurate pay, applied only to officers rated at sergeant or above. Demotions may be appealed to the Board
- 3.1 (4) Dismissal: a permanent loss of employment. Dismissals may be appealed to the Board. Employees who are dismissed may not be reemployed, reinstated or rehired within the Sheriff's Office, except by reinstatement by the Board on review of a dismissal.

3.2 DISCIPLINARY ACTION INITIATED BY THE SHERIFF

- 3.2 (1) Disciplinary action taken by the Sheriff involving dismissal, suspension, or reduction of any Deputy Sheriff covered hereunder shall be subject to review by the Board on the filing of a written appeal by the Deputy. When such review is requested, the Board shall schedule and conduct a public hearing to review the action of the Sheriff, subject to these Rules and Regulations and all applicable statutes and ordinances.
- 3.2 (2) At the time of any disciplinary action, the Sheriff shall provide the Deputy with written notice of the charge, the action to be taken, and reasons for the action taken. Unless otherwise stated in the notice, the effective date of the disciplinary action shall be the date of the notice from the Sheriff to the Deputy. The notice shall inform the Deputy of all appellate rights, and a copy of the notice shall be provided to the Board's Chair and Counsel.
- 3.2 (3) Any notice of appeal of the Sheriff's disciplinary action shall be delivered to the Board's Chair and Counsel by the Deputy or his or her counsel within ten (10) days of the effective date of the Sheriff's disciplinary action. The Board shall then set the matter for a hearing within sixty (60) days of the effective date of the disciplinary action, unless said sixty (60) day period is waived in writing by the Deputy.
- 3.2 (4) At the conclusion of the public hearing, the Board may uphold the action of the Sheriff, or in any case where a majority of the Board determines that the action of the Sheriff is unjustified or unsupported by proper evidence, then the order of the Sheriff may be set aside and revoked by the Board and the Board may impose such penalty or punishment as it may deem necessary and appropriate, if any.

3.3 DISCIPLINARY ACTION INITIATED BY THE BOARD

- 3.3 (1) The Board may remove, suspend, or discipline any Deputy Sheriff covered by the provisions of KRS 70.260-.273 and applicable Ordinances as amended, on written charges of misconduct preferred on its own initiative or on the initiative of any citizen when a complaint is made in writing and under oath. Such action may only be taken after reasonable written notice to the accused and after a complete public hearing at which the accused Deputy shall have the right to be present, represented by counsel, and confronted by all of the witnesses preferring charges against the Deputy.
- 3.3 (2) The Board shall promptly provide the Deputy with a full written description of any charges brought by the Board or a citizen. In the event that the charges are based on a citizen's complaint, a copy of said complaint shall be provided to the accused Deputy along with the Board's charges.
- 3.3 (3) The Sheriff or a designee shall appear before the Board and participate in the hearing, subject to the Hearing Procedures established by the Board.
- 3.3 (4) Procedural due process shall be afforded to all Deputy Sheriffs by the Board. The Board shall have the power to issue subpoenas and compel the attendance of witnesses or the production of documents, and shall conduct its hearings, as far as possible, within the Kentucky Rules of Civil Procedure. Any Deputy who is not given a hearing within sixty (60) days of any charge being preferred shall be reinstated in full, unless said sixty (60) day requirement has been waived in writing by the Deputy. For the purposes of a citizen's appeal to the Board from the Sheriff's determination of their written charge of misconduct, the sixty (60) day notice period shall begin after the Board has conducted its investigation and notified the accused Deputy of its intent to prefer charges and hold a hearing on the citizen's complaint.
- 3.3 (5) Final disciplinary determinations and orders of the Board may be appealed within thirty (30) days of their effective date to the Jefferson County Circuit Court. The Board shall be named as a respondent in any such action, and the Circuit Court appeal shall consist of a review of the record by the Court.

3.4 DISCIPLINARY ACTION INITIATED BY CITIZEN COMPLAINT

- 3.4 (1) Any citizen may make a charge of misconduct concerning the action of any Deputy Sheriff in writing and under oath. If not satisfied with the action taken by the Sheriff in response to said charge, the citizen may appeal the determination of the Sheriff to the Board within thirty (30) days of the effective date of said determination, setting forth the particulars of the charge and the reasons for the appeal.
- 3.4 (2) Should the Board require a full public hearing after investigating a citizen's appeal of the Sheriff's determination, the Board shall conduct a hearing as set forth herein and reach its determination at the conclusion of the hearing. Thereafter, the Board shall issue its Findings and Order promptly and notify the complainant, the Sheriff and the accused Deputy of the Board's determination.
- 3.4 (3) A citizen may appeal from the final action of the Board as set forth in Section 3.3(5) herein.

4. HEARING PROCEDURES

4.1 GENERAL COVERAGE

These procedures govern practice in all hearings before the Jefferson County Deputy Sheriff Merit Board in conjunction with the procedural requirements of KRS 70.260-.273, KRS 15.520 and applicable Ordinances, all as amended. These procedures are intended to establish the administrative practices that will be followed in all disciplinary appeal proceedings conducted by the Board.

4.2 HEARING REQUESTS; DOCKETING

- 4.2 (1) Within ten (10) calendar days of any disciplinary action taken by the Sheriff which is subject to review by the Board, as provided in KRS 70.260 through KRS 70.273 and Ordinances as amended, the affected Deputy must notify the Board and the Sheriff in writing of his or her intention to appeal the action of the Sheriff. The Deputy shall include in such notice the intent to be represented by counsel at the requested hearing, and set forth the grounds for said appeal in this notice. As soon as practicable, the Deputy must notify the Board of the name and address of said attorney.
- 4.2 (2) Upon receipt of any notice of appeal, the Sheriff shall forward to the Board true copies of the written notice of the disciplinary action, together with any reply or other explanatory matter filed by the affected Deputy.
- 4.2 (3) Upon receipt of a notice of appeal, the Board shall, at its next regularly scheduled meeting or by telephone conference, establish a date for the hearing, which shall be at the convenience of the Board members and parties, in order to ensure a quorum and the resolution of all issues at the hearing. Unless otherwise ordered by the Board, the Chair or a designee shall, upon receipt of a notice of appeal, schedule a public hearing as set forth herein which is not less than twenty (20) calendar days nor more than sixty (60) calendar days from the date of the notice to the Deputy of the disciplinary action taken by the Sheriff. The announcement of the hearing shall be treated like all other public notices by the Board and shall be communicated in a like manner.
- 4.2 (4) In addition to the notice given above, upon assignment of an appeal for hearing, a notice of the Board by the Chair or a designee shall give notice of the date, time and place of the hearing to each member of the Board, to the Sheriff and any counsel designated by the Sheriff, and to the Deputy appealing and any counsel designated by said appellant. The notice to the Deputy appealing and to his or her designated counsel, if any, shall include a copy of these Rules and Regulations containing references to current Kentucky Statutes and Ordinances relating to appeals to the Board, unless said materials have previously been provided to the appellant or his or her counsel.

4.2 HEARING REQUESTS; DOCKETING (cont.)

- 4.2 (5) After an appeal is initially assigned to a hearing date, the Board may reassign the hearing to another date on its own motion, if it appears that a quorum will not be available for the original hearing date. The hearing will be assigned according to the availability of Board members and the parties, but the Board may reassign to another date if necessary. Unless waived by the appealing Deputy, no reassignment shall cause the public hearing to be held more than sixty (60) days from the date of the notice to the Deputy of the disciplinary action of the Sheriff or of the imposition of charges by the Board on its own initiative.
- 4.2 (6) Any request by either party to an appeal for a continuance of any public hearing scheduled by the Board shall be in writing and shall be filed with the Chair and the Board's Counsel immediately upon the occurrence of the circumstances which prompt the request. A copy of the request shall be mailed by the requesting party to the opposing party or designated counsel at the same time it is filed with the Board. The opposing party, if so desired, shall file a response within five (5) calendar days of receipt of the continuance request. A request for continuance filed by the appealing Deputy shall be accompanied by a written waiver, signed by both the Deputy and designated counsel, specifically waiving the Deputy's entitlement to be afforded a hearing within sixty (60) calendar days of the notice to the Deputy of the disciplinary action by the Sheriff or of charges brought by the Board. Timely requests for continuances will be granted by the Board, in its discretion, for good cause shown. Written notice of any rescheduled hearing date shall be given in accordance with Sections 4.2 (3) and 4.2 (4) above.

4.3 CHARGES BROUGHT BY BOARD OR CITIZEN

- 4.3 (1) Whenever the Board wishes to discipline any Deputy covered by the provisions of KRS 76.260 through 76.273 on written charges of misconduct preferred on its own initiative or the initiative of any citizen by a sworn complaint, the Board, by and through its Chair, shall notify said Deputy and the Sheriff in writing of the charges to be brought, including a copy of the citizen's complaint where applicable. A hearing shall be held within sixty (60) days of the date of said written notification of charges.
- 4.3 (2) Within ten (10) calendar days after the written charges are received by the accused Deputy, he or she may file a written answer to said charges but in no event shall any disciplinary action be taken until a complete public hearing is held, at which time the accused Deputy shall have the right to be present and represented by counsel, and to confront all of the witnesses preferring charges.
- 4.3 (3) The Sheriff, or his designated counsel, shall participate in said hearing in the manner that the Sheriff perceives to be in the best interests of the Sheriff's Office. Said hearing shall be docketed in accordance with the procedures set forth herein, and the Board shall comply in all respects with the provisions of KRS 15.520 et seq. in the conduct of such proceedings.

4.4 PREHEARING MOTIONS

- 4.4 (1) Unless otherwise ordered by the Board, motions to dismiss the proceedings or for summary disposition of the appeal shall be made in writing and filed with the Board Chair and Counsel not less than ten (10) calendar days prior to the scheduled hearing. The basis for any such motion shall be stated clearly and include copies of any authorities relied upon. Copies of any such motion shall be served upon the opposing party or their counsel. The party opposing the motion may file a response with the Board's Chair and Counsel within five (5) calendar days after receipt of such motion, and shall serve a copy of any response upon the other party or its counsel.
- 4.4 (2) Testimony of any witness at a hearing may be introduced into evidence at the hearing in the form of a videotaped deposition, provided that the other party and Board Counsel are given full opportunity to be present at the witness's deposition and cross-examine the witness. Either party may move for leave of the Board to take a videotape deposition, and it is the stated preference of the Board that said motions be filed jointly by the parties in the form set forth in the suggested Joint Motion and Order for Videotaped Deposition, copies of which are available from the Chief Examiner for the Board. It is the policy of the Board to seek to limit the use of videotape depositions to the testimony of medical or other experts who would not be available to appear at the hearing, or for witnesses who do not reside within the jurisdiction, or would not be available to appear in person at the hearing for good cause shown.

4.5 DISCLOSURE AND EXCHANGE OF WITNESSES AND DOCUMENTS

- 4.5 (1) At least ten (10) calendar days prior to any scheduled hearing, the parties shall exchange the following information in writing and copies shall be filed with the Board's Chair and Counsel:
- (a) except for good cause shown on motion to the Board, the names and current addresses of all persons each party may call as a witness, and a brief summary of each witness's expected testimony; and
 - (b) copies of all records or other documents each party expects to tender as evidence at the hearing.
- 4.5 (2) Any physical evidence not susceptible to photocopying or reproduction expected to be used by a party at the hearing shall be made available for inspection to opposing counsel at least ten (10) calendar days prior to the hearing.
- 4.5 (3) Except for good cause shown, or for purposes of rebuttal, the Board shall not permit a witness to testify or an exhibit to be admitted into evidence unless the party calling the witness or tendering the exhibit has complied with the procedures set forth in this section.
- 4.5 (4) Unless otherwise directed by the Board, no other prehearing discovery shall be available to the parties.

4.6 OBJECTIONS TO EXHIBITS

- 4.6 (1) Any party objecting to the admissibility or introduction of a document, report or exhibit disclosed pursuant to Section 4.5 above shall file the objection, in writing, not less than five (5) calendar days prior to the scheduled hearing, with copies of the objection served on the opposing party or its counsel.
- 4.6 (2) All such objections shall state clearly and with particularity the grounds for the objection along with copies of any authorities relied upon. Except for good cause shown, any party not objecting to the admissibility or introduction of a document, report, or exhibit in compliance with this section shall be deemed to have waived any objection as to the admissibility or introduction of same.

4.7 STIPULATIONS

- 4.7 (1) Counsel for the parties shall confer prior to any scheduled hearing to determine the extent to which uncontested facts can be stipulated by the parties in connection with the evidence to be presented at the hearing.
- 4.7 (2) At the commencement of the hearing, any stipulations as to testimony or facts shall be submitted to the Board orally or in writing and verified by each of the parties or their counsel. Stipulations as to exhibits will be noted at the commencement of the hearing and shall be referred to as such when used by either party.

4.8 ORDER OF PROCEEDINGS; EVIDENCE

- 4.8 (1) Evidence at Board hearings shall be developed and presented by parties briefly, materially, and relevantly. The parties shall not be redundant in the presentation of their evidence.
- 4.8 (2) The Sheriff shall have the burden of going forward with the evidence and presenting such evidence that was considered in determining the disciplinary action under review. The appealing Deputy shall then present such evidence as he or she may have that the disciplinary action of the Sheriff is unjustified or unsupported by proper evidence. Either party may present rebuttal evidence that shall not restate or cumulate direct evidence previously presented by that party.
- 4.8 (3) All motions or objections of an evidentiary nature, not otherwise covered by Section 4.6 above, shall be stated with particularity along with the reasons therefor. The opposing party or its counsel shall be allowed to respond briefly to the motion or objection. No further arguments or statements by either party will be permitted unless requested by the Chair or Counsel to the Board. The Chair shall promptly announce, on the record, all rulings on motions and objections that may be conditional or final under the circumstances.

4.9 WITNESSES

- 4.9 (1) Witnesses testifying at hearings shall do so under oath and may be cross-examined by an opposing party or by any member of the Board or by Counsel for the Board. An appealing Deputy may not be compelled to testify, but an appealing Deputy who does not testify under oath shall not be permitted to make any unsworn statement at a hearing.
- 4.9 (2) At the commencement of any hearing and before any evidence is presented, the Board shall direct the separation of witnesses upon the request of either party. Any party failing to make a timely request for separation shall be deemed to have waived the right to do so. The Sheriff or a designated agent, whether or not testifying as a witness, shall be exempt from any separation order.

4.10 ARGUMENTS AND STATEMENTS

In addition to formal evidence introduced at a hearing, the Board shall permit brief arguments and statements of counsel or the parties upon such conditions and restrictions as the Board deems fair, adequate or necessary to protect the rights of the parties and to facilitate the hearing process.

4.11 HEARINGS TO BE STENOGRAPHICALLY RECORDED

All hearings shall be stenographically or electronically recorded unless otherwise ordered by the Board with the written consent of the Sheriff and the appealing Deputy. The expense of transcribing the hearing record shall be borne by the party appealing the Board's decision to the Jefferson Circuit Court.

4.12 SUBPOENAS

- 4.12 (1) Upon a showing of proper need at the request of the Sheriff or the appealing Deputy, the Board shall issue subpoenas to compel the attendance of witnesses or for the production of documents or other documentary evidence in conjunction with any Board hearing.
- 4.12 (2) The party applying for the issuance of a subpoena to the Board's Chair and Counsel shall set forth the substance of the anticipated proof or relevance of the documentary evidence to be obtained and the need therefore in support of the application. The Board may issue subpoenas in its own name if deemed necessary in a particular situation.

4.13 EVIDENCE NOT PERMITTED; EXCEPTIONS

- 4.13 (1) Any investigative file compiled or maintained by the Office of the Sheriff, the Louisville Metro Police Department, the Jefferson County Attorney and the Commonwealth's Attorney, or any other law enforcement agency or official, or any statement, memorandum, letter or report obtained or prepared for the purpose of inclusion in such an investigative file, shall not be disclosed or produced at a hearing unless:
- (a) A file or any part thereof is to be introduced into evidence by the Sheriff and is disclosed pursuant to Section 4.5; or
 - (b) Any witness testifies from or with reference to a specific document or record from any investigative file, in which case the party calling the witness shall promptly produce any such document or record to the Board and to the other party.
- 4.13 (2) The Sheriff may not introduce into evidence representations as to the character, reputation, suitability, or professional competence of the appealing Deputy unless:
- (a) The same constitutes grounds for the disciplinary action under appeal and the Sheriff's initial written notice of the disciplinary action clearly sets forth grounds in that regard; or
 - (b) The appealing Deputy introduces evidence as to the same, in which case the Sheriff shall be entitled to rebut the evidence with any appropriate evidence, whether or not similar in nature to that of the appellant.
- 4.13 (3) The Sheriff may not introduce any evidence of any prior disciplinary action or criminal charge regarding the appealing Deputy unless:
- (a) The same constitutes grounds for the disciplinary action under appeal and the Sheriff's initial written notice of the disciplinary action clearly sets forth grounds in that regard; or
 - (b) The appealing Deputy introduces evidence as to the absence of any prior disciplinary action or criminal charge, in which case the Sheriff shall be entitled to rebut same.

4.14 DELIBERATIONS AND DECISIONS OF THE BOARD

- 4.14 (1) At the conclusion of a disciplinary hearing, the Board shall retire into executive session to reach its decision. No other person shall be present in any executive session for this purpose except Counsel for the Board.
- 4.14 (2) In its deliberations, the Board shall give due consideration to the fact that the Sheriff has the burden of presenting reliable, relevant evidence to the Board as to the factual and circumstantial basis of the disciplinary action under review. The Board shall also give due consideration to the primary disciplinary responsibility and authority of the Sheriff.
- 4.14 (3) Following its deliberations in executive session at the conclusion of a hearing, the Chair shall announce on the record the decision and relevant factual findings of the Board. The decision and factual findings of the Board shall then be reduced to a written "Findings and Order", which shall be signed and dated by the Chair in the name of the Board. Any member of the Board shall, upon request at the hearing, have the right to have any separate or dissenting opinion included as part of the Board's Findings and Order. When signed and dated by the Chair, the Findings and Order and any dissent thereto shall be immediately mailed to the Sheriff and his or her Counsel, and to the appealing Deputy or his or her counsel, and the Findings and Order shall be considered final for all purposes at that time, including purposes of judicial review.

5. APPLICATION AND SELECTION FOR EXAMINATION

5.1 RECRUITMENT

The Chief Examiner shall determine appropriate procedures for recruitment of applicants, based on the number of qualified applicants needed and the principles of equal employment opportunity.

5.2 ANNOUNCEMENTS

- 5.2(1) Announcements of examinations shall be circulated according to procedures determined by the Chief Examiner.
- 5.2(2) Announcements shall include the title and salary level of the class; the time, place and manner of making application; the final filing deadline; qualifications required, if any; the date, time, place and type of examination to be administered; and may also include a description of the work performed.
- 5.2(3) Announcement of a promotional examination shall be made at least ninety days prior to the conduct of the examination.
- 5.2(4) Notice of open competitive examinations may be advertised publicly not less than (10) days prior to the filing deadline when the Chief Examiner determines that such advertising is necessary to produce an adequate number of qualified applicants or to support the Affirmative Action Program of the Board and/or the Sheriff's Office.

5.3 APPLICATIONS

5.3 (1) Application Forms

- (a) Applications shall be made only on forms approved by the Board.
- (b) Applications must be signed by the applicant. The applicant's signature shall be understood as certifying the truthfulness of all statements made on the application form.
- (c) Application must be completed and delivered to the return address listed on the application before the close of business on the day of the final filing deadline.
- (d) Separate applications must be completed for each examination for which an applicant has applied. Employees must complete a new application to compete for promotional appointments.
- (e) The Chief Examiner may require applicants to provide any and all proof necessary to support claims made on the application. All proof required to support claims on the application must be submitted prior to the final filing deadline.
- (f) Information contained in applications shall not be open to the public, but shall be available for administrative review by the Sheriff and the Board or their authorized representatives. Information from an employee's personnel file shall be released to any other persons or agencies only when the Board is ordered to do so by a lawful subpoena or order of a court or an administrative agency, or when permission to do so is received in writing from the employee.

5.3 APPLICATIONS (cont.)

5.3 (2) Qualifications of Applicants

(a) Permanent Residence

Every sworn member of the Sheriff's Office must reside within Jefferson County, Kentucky, or an adjacent county in Kentucky, within ninety (90) days of appointment and continue residency therein during the term of appointment.

(b) Qualifications Contained on Job Descriptions

Applications shall be accepted only from persons who meet all qualifications contained on the job description for the class that has been approved by the Board.

(c) General Qualifications

Qualifications commonly required of all employees in all classes, such as, but not limited to, honesty, sobriety and industry, shall be understood to be implied qualifications for each class, even though they are not specifically mentioned in the job description.

5.3 APPLICATIONS (cont.)

5.3 (3) Qualifications of Deputy Sheriff Applicants

Qualifications for initial and continued employment as a deputy sheriff shall, at a minimum, include that the candidate:

- a) is a U. S. citizen;
- b) is at least twenty-one (21) years of age;
- c) has a high school diploma or a GED Certificate;
- d) has and maintains a valid driver's license;
- e) has received an honorable discharge if having served in any branch of the armed forces of the United States;
- f) satisfies all minimum firearms qualifications; and
- g) meets all minimum qualifications established by state law and regulation.

5.3 (4) Qualifications of Applicants for Promotion to Sergeant

A candidate for promotion to Sergeant must have three (3) years of continuous sworn service from their most recent hire date as a Jefferson County Deputy Sheriff before becoming eligible to apply for promotion to Sergeant.

5.3 APPLICATIONS (cont.)

5.3 (5) Qualifications of Applicants for Promotion to Lieutenant

A candidate for promotion to Lieutenant must have one year of sworn service as a Jefferson County Deputy Sheriff Sergeant and five years of total sworn service with the Jefferson County Sheriff's Office before becoming eligible for promotion to Lieutenant.

5.3 (6) Qualifications of Applicants for Promotion to Captain

A candidate for promotion to Captain must have one year of sworn service as a Jefferson County Deputy Sheriff Lieutenant and six years of total sworn service with the Jefferson County Sheriff's Office before becoming eligible for promotion to Captain.

5.3 (7) Disqualification of Applicants

The Chief Examiner shall reject an application, refuse to examine a candidate, remove an eligible's name from the eligibility list, refuse to certify the name of an eligible, or seek to remove an employee already appointed, if it is found that the person:

- (a) does not meet the qualifications established by Rule 5.3(3);
- (b) has made a knowingly false or misleading statement of material fact on the application;
- (c) has used or attempted to use political pressure or bribery to secure an advantage in the examination;

5.3 APPLICATIONS (cont.)

5.3 (7) Disqualification of Applicants (cont.)

- (d) has directly or indirectly solicited or obtained confidential information regarding the examination to which the applicant was not entitled;
- (e) is prohibited by federal or state law from possessing a firearm;
- (f) has been convicted of or pled guilty to a felony or to a misdemeanor involving crimes of moral turpitude;
- (g) has acknowledged the use of unlawful drugs within the last three (3) years; or
- (h) has otherwise willfully violated the provisions of these Rules.

Furthermore, the Chief Examiner may reject an application, refuse to examine a candidate, remove an eligible's name from the eligibility list, refuse to certify the name of an eligible, or seek to remove an employee already appointed, if it is found that the person:

- (i) has failed to submit the application correctly or within the prescribed time limits;
- (j) has failed to successfully complete all required tests and assessments;
- (k) has taken part in the compilation, administration, or correction of the examination for which the applicant has applied;
- (l) has established an unsatisfactory employment or personnel record, as evidenced by background investigation, of such nature as to indicate unsuitability for employment; or
- (m) for such other reason considered by the Sheriff or Chief Examiner to indicate that employment of the individual would be detrimental to the best interests of the Office.

6. EXAMINATIONS

6.1 CHARACTER OF

- 6.1 (1) Examinations shall be job-related in character, practical in nature, and relevant to those factors which test thoroughly the capabilities and qualifications of the applicant to discharge both proficiently and efficiently the duties of the class. Examinations shall be constructed in accordance with applicable professional testing guidelines.
- 6.1 (2) Examinations may consist of written or oral tests, physical fitness tests, medical or psychological examinations, demonstrations of skills, and/or ratings of previous experience and training. The Board shall employ a Chief Examiner who shall operate under the Board's sole supervision. The Board shall only employ a person for this position who is qualified and experienced in the field of testing. The Chief Examiner shall be responsible for determining the types of examinations to be administered and shall design, administer, and evaluate all written and oral promotional tests. The Chief Examiner shall be empowered for such purposes to employ, with the approval of the Board, the services of a professional testing agency to aid in the construction of these tests. All testing and scoring methods shall not depart from, or be inconsistent with, those set out in KRS 70.260-270.

6.2 ADMISSION

Only persons who have met all qualifications and whose applications are submitted and accepted prior to the final filing deadline shall be admitted to participate in the examination process.

6.3 PHYSICAL AND MEDICAL

- 6.3 (1) The Sheriff's Office may contract one or more medical examiners to conduct physical and medical examinations for classes requiring medical and physical standards.
- 6.3 (2) Performance on the physical and medical examinations shall be reported on a pass/fail basis.

6.4 ADMINISTRATION

- 6.4 (1) The Chief Examiner shall be administratively responsible for overseeing the administration, integrity and security of all examinations.
- 6.4 (2) The Chief Examiner shall be responsible for reporting the results of all examinations to the Board.
- 6.4 (3) No candidate shall be allowed to take an examination other than at the time and place designated for such in advance, unless there are conditions which, in the opinion of the Chief Examiner, upon consultation with the Sheriff, justify otherwise.
- 6.4 (4) All examination materials shall be regarded as privileged and confidential and not available for public inspection. Any member of the Sheriff's Office, employee of the Board, or Board Member who engages in an activity which destroys the integrity, confidentiality, or security of the examination process shall be subject to immediate dismissal or removal, and, if warranted, prosecution.

6.5 PROMOTIONAL

6.5 (1) Notice

Notice of the date, time, and place of examination shall be given at least ninety days before a promotional examination is conducted. A list of source material shall be made available for study at this time. Notice shall be posted in conspicuous areas where sworn personnel work and assemble.

6.5 (2) Parts and Weights

Promotional examinations shall consist of written examinations, oral examinations and the consideration of seniority. The composite score of the examination battery shall be calculated as follows:

65% Written Examination

35% Oral Examination

An applicant shall receive one (1) seniority point to be added to the Written and Oral Examination composite score for each full year over three (3) full years of continuous service. No applicant shall receive more than ten (10) seniority points. No applicant will receive a seniority point for serving less than a full year.

6.5 (3) Oral Examination Panels

The Chief Examiner shall select a panel of three (3) members to conduct oral examinations of the candidates for promotion. The panel shall be selected from outside of the local Sheriff's Office and from an agency or agencies of the same field. The panel members shall be of at least the same rank as that to which the applicant aspires.

6.5 PROMOTIONAL (cont.)

6.5 (4) Physical Examination

Physical fitness for promotion is presumed unless certified to the contrary by the Sheriff, who shall supply the Board with evidence rebutting the presumption of physical fitness.

6.5 (5) Results

The Chief Examiner shall be responsible for the compilation of the grades of all candidates, based upon established percentages. The Chief Examiner shall deliver the final scores of the applicants for promotion directly to the Chair of the Board in a manner that will ensure complete privacy and confidentiality of the applicants and their scores. The Chief Examiner will not release this information to anyone but the Chair of the Board. The Chair of the Board, upon review of the complete list of scores, shall direct the Chief Examiner to notify, in writing, each participant in the examination of their individual score and ranking.

6.6 ERRORS IN GRADING

Errors in grading an examination shall be corrected when they are discovered, as well as any error made in an eligibility list as a result; however, any such error shall not invalidate any appointment made prior to the discovery of the error. The Board may take such action as necessary to correct errors in grading examinations.

6.7 POSTPONEMENT OR CANCELLATION

- 6.7 (1) The Chief Examiner, when necessary, may postpone or cancel an examination.
- 6.7 (2) All applicants scheduled to take an examination that is canceled or postponed shall be given reasonable notice under the circumstances of such cancellation or postponement.

6.8 PASSING-POINT SCORES

Any passing-point score established for an examination shall be recommended by the Chief Examiner, based upon sound psychometric procedures and approved by the Chair of the Board. All passing-point scores shall be reported in writing to all Board Members promptly upon being established. Passing-point scores may be set in a manner which considers and minimizes adverse impact based on appropriate legal guidelines.

6.9 NOTICE OF TEST RESULTS

All candidates who complete an examination shall be notified in writing of their score and, after compilation of all numerically rated elements of the examination process, shall be notified of their combined scores rating and ranking on the appropriate eligibility list.

6.10 RESULTS OF FAILING

Any candidate who fails an examination shall be ineligible to apply for an examination for the same class for a period of six (6) months from the date of the final filing deadline of the failed examination.

6.11 AVAILABILITY FOR APPOINTMENT

Candidates participating in an examination indicate by their participation their willingness, if successful in the exam and following placement on the list of eligibles, to respond to notices to appear for interviews and accept appointment, if offered.

7. ELIGIBILITY LISTS

7.1 GENERAL PROVISIONS

- 7.1 (1) The Chief Examiner shall be responsible for the preparation of all eligibility lists following the completion of all required numerically rated examinations for a class.
- 7.1 (2) The eligibility list shall show the name of each eligible in order of final standing in the examination process. The eligibility list shall provide information deemed necessary by the Chief Examiner. All such eligibility lists shall be kept confidential in accordance with the statutes governing the office of the Chief Examiner.
- 7.1 (3) In the event a candidate's name is placed on an eligibility list and the candidate changes address of residence, the candidate shall notify the Board at once, giving the new address.

7.2 OPEN COMPETITIVE

- 7.2 (1) Open competitive eligibility lists contain the names of persons who are qualified for further selection procedures or appointment as a result of open competitive, numerically-rated examinations for positions assigned to the class covered by the list. This type of list shall be effective for two years, unless otherwise directed by the Board.
- 7.2 (2) The names of all persons who have obtained a score that is equal to or greater than the passing-point score in the examination shall be placed in rank order on the eligibility list.
- 7.2 (3) In the event that two or more persons achieve the same combined scores rating, the names shall be placed on the eligibility list in the order of rating earned on that part of the examination that was given the greatest value in the total examination process.
- 7.2 (4) In the event that two or more persons achieve the same combined scores rating and the same rating on that part of the examination that was given the greatest value, the same rank shall be assigned to all persons with the same score. The names within that rank will be listed alphabetically.

7.2 OPEN COMPETITIVE (cont.)

- 7.2 (5) When the Chief Examiner deems that circumstances appear to warrant, an examination shall be given for the purpose of replenishing the list. For the sworn Deputy Sheriff examination, all eligibles whose names are on the existing list shall be integrated into the new list in rank order and shall remain on the list only as long as the eligible's name would have remained on the original list or for a period not to exceed two years.

7.3 PROMOTIONAL

- 7.3 (1) Promotional eligibility lists contain the names of non-probationary employees in the Sheriff's Office who meet the requirements outline in Rule 5.3 and have completed all numerically-rated promotional examinations and who are eligible for promotion to positions assigned to the class covered by the list.
- 7.3 (2) The names of all persons who have obtained a score that is equal to or exceeds the passing point score in an examination shall be placed on the eligibility list for the class for which they were examined in the order of their combined scores rating. A list of no more than three (3) candidates having the highest combined scores shall be submitted to the Sheriff for each vacancy. Whenever there is more than one (1) vacancy to be filled, the number on the list of candidates with highest combined scores shall equal the number of vacancies plus two (2), i.e., the Rule of Threes shall apply.
- 7.3 (3) When candidates on an eligibility list have the same Final Earned Rating, they are considered tied and shall receive the same ranking. When it is necessary to certify the rank consisting of tied scores, all candidates having tied scores shall be certified.
- 7.3 (4) Promotional eligibility lists shall be effective until exhausted or for a period of one year unless otherwise directed by the Board. At the discretion of the Sheriff and with notification to the Board, a list may be considered exhausted when there are fewer than three (3) candidates remaining on the eligibility list. Under no circumstances shall promotional eligibility lists be consolidated with newly prepared lists.

7.4 REINSTATEMENT

- 7.4 (1) Reinstatement eligibility lists contain the names of former regular employees in the Sheriff's Office who resigned or otherwise separated employment in good standing, requested to be placed on the reinstatement eligibility list, and are approved by the Sheriff and the Board as eligible to be reemployed in entry-level positions.
- 7.4 (2) The names of former employees shall be placed on this list in the order their request for placement on the list was received.
- 7.4 (3) Reinstatement eligibility lists shall have a continuous life with the name of each eligible remaining on the list for a period of one year from the date of placement on the list.
- 7.4 (4) In order to be placed on a reinstatement eligibility list, a former employee must apply for placement on the list within one year of separation from the service. Requests for inclusion on the list must be submitted in writing and approved by the Sheriff and the Board.
- 7.4 (5) For the purpose of certification under Rule 7.2, reinstatement appointments shall be selected on the basis of whole list certification.

7.5 RECALL FROM LAYOFF

- 7.5 (1) Recall from layoff eligibility lists contain the names of former permanent employees who have been laid-off and who are eligible for reemployment, without benefit of competitive examination, in positions of the same class in which the employee last held a permanent appointment prior to layoff.
- 7.5 (2) A separate recall from layoff eligibility list shall be created for each class in which permanent employees of the Sheriff's Office are laid-off.
- 7.5 (3) The names of former employees on a recall from layoff eligibility list shall be placed on the list in the order of layoff. If more than one employee has the same layoff date, the names of those persons shall be placed on the list under the same number ranking in alphabetical order.
- 7.5 (4) For the purpose of certification under Rule 7.2, recall from layoff appointments shall be selected on the basis of whole list certification.
- 7.5 (5) A recall from layoff eligibility list shall have a continuous life and the name of each former employee shall remain on the appropriate list for one year from the date the layoff became effective.

7.6 LATERAL TRANSFER

- 7.6 (1) A lateral transfer eligibility list contains the names of sworn law enforcement officers of any other jurisdiction who meet the qualifications for employment as stated on the job description for Deputy Sheriff Officer-Lateral Transfer. Lateral transfer eligibility lists shall have a continuous life with the name of each eligible remaining on the list for a period of one year from the date of placement on the list.
- 7.6 (2) Applicants for lateral transfer must provide proof of Kentucky Law Enforcement Council (KLEC) basic certification, or equivalent certification from another state, as approved by KLEC, in order to be placed on the lateral transfer list.

7.7 REMOVAL OF NAMES

The Chief Examiner may remove a name from the eligibility list or refuse to certify a name on an eligibility list if the eligible:

- (a) fails to notify the Board in writing of any change in address. For this purpose the return of a letter by the postal authorities, if properly addressed to the last address on record, shall be deemed sufficient grounds for this action.
- (b) fails to notify the Board of any change that would affect the eligible's availability for employment.
- (c) requests, in writing, such action.
- (d) fails to report for duty, as directed by the Sheriff.
- (e) has not been appointed after having been certified five times for consideration for an original appointment to positions for which the list was prepared.
- (f) resigns, and the eligible's name appears on a promotional eligibility list.

8. APPOINTMENT

8.1 REQUISITION

In order to fill a vacancy in the Sheriff's Office, the Sheriff shall request the Chief Examiner to certify a list of eligibles by completion and submission of a requisition form prepared for such use by the Chief Examiner. The Sheriff shall indicate on this form the desired type of eligibility list and method of appointment.

Within the context of these rules regarding promotions, a vacancy shall be said to occur on the date that a position of Sergeant, Lieutenant, or Captain is no longer filled due to factors including, but not limited to promotion, demotion after appeals are exhausted, resignation, retirement, or death.

8.2 CERTIFICATION

8.2 (1) After receipt of the requisition form and upon completion of combined scores ratings for all required numerically-rated examinations, the Chief Examiner shall certify to the Sheriff the list of eligibles prepared for the class to which the position to be filled is assigned.

8.2 (2) Open Competitive

If the vacancy is to be filled through the open-competitive method, the Chief Examiner shall certify to the Sheriff all of the names on the appropriate eligibility list.

A certification of a list of eligibles to fill any number of vacancies in a class at the same time shall be considered a single certification for each eligible regardless of the number of vacancies to be filled.

8.2 (3) Promotional

In compiling every competitive promotion list for examinations given after the effective date of this regulation as amended, the eligible candidates shall be ranked in the order of their ratings earned in the examination given for the purpose of establishing the list. Promotions shall be filled by the Sheriff within sixty (60) days from the date of a vacancy from a list of no more than three (3) of the candidates who obtained the highest combined scores on the written and oral examination, including any seniority points, and are physically fit to serve in the new capacity. Procedures for determining rankings for tied Final Earned Rating are outlined in Rule 7.3(3).

8.2 (4) The Sheriff shall instruct eligibles when to report for any pre-employment interview. The name of an eligible who fails to report for the interview shall be reported to the Chief Examiner who shall determine whether there is adequate reason to remove the name from the eligibility list.

8.2 (5) Eligibles shall not be permitted to waive certification or to determine the time their names will be certified.

8.3 TYPES OF APPOINTMENTS

8.3 (1) General Provisions

- (a) The Sheriff shall notify the Chief Examiner, on a form prepared for such use, which eligible has been selected for appointment. The names of eligibles not selected shall be returned to the same position on the eligibility list as were held prior to certification.
- (b) The Sheriff may appoint only persons whose names appear on the certified list of eligibles unless otherwise provided for in these rules.
- (c) No person may receive more than one appointment within the Sheriff's Office at any one time.

8.3 (2) Probationary Appointment

Unless otherwise provided for in these rules, newly employed and newly-promoted employees are initially granted a probationary appointment, after which they are required to serve a probationary period in the class to which they are appointed. (For further information on the probationary period, see Rule 9.)

8.3 (3) Permanent Appointment

Following the successful completion of the original probationary period, employees shall be granted a permanent appointment in their class after which they obtain the full status and benefits of the Sheriff's Office.

8.3 (4) Emergency Appointment

- (a) In the event that there are urgent reasons for filling a vacancy and the Chief Examiner is unable to certify a list of eligibles within a reasonable amount of time, the Sheriff may request the Chief Examiner to authorize the placement of a person in the vacancy on a temporary basis. The Sheriff shall inform the Chief Examiner of the person the Sheriff wishes to appoint on a temporary basis, listing that person's qualifications for appointment. The Chief Examiner shall determine if the person so requested is qualified, and shall certify this in writing, prior to authorizing the emergency appointment.

8.3 TYPES OF APPOINTMENTS (cont.)

8.3 (4) Emergency Appointment (cont.)

- (b) Temporary appointments of an emergency nature may continue until an appointment can be made in the usual manner, but shall not continue, under any circumstances, for longer than 60 (sixty) days.
- (c) Emergency appointments authorized by the Chief Examiner must be subsequently approved by the Board.
- (d) Service on an emergency appointment shall not count toward any probationary period the employee may be required to serve at a later date.
- (e) No person may receive more than two emergency appointments within any one period of twelve continuous months.

8.3 (5) Acting Appointment

The Sheriff may appoint employees to positions of a higher class on an acting basis for a period not to exceed sixty (60) continuous days. In the event that an old list has expired but a new list does not yet exist the Board shall be authorized to extend this period until a new list can be prepared and certified. The Sheriff shall report all such appointments in excess of five days, in writing, to the Board at its next regular meeting.

8.3 (6) Reinstatement Appointment

The Sheriff may appoint former permanent employees who have resigned in good standing and who have been placed on a reinstatement eligibility list to an entry-level position.

8.3 (7) Recall for Layoff Appointment

The Sheriff may appoint former permanent employees who have been listed on a recall from layoff eligibility list, to positions assigned to the same class in which they last held a permanent appointment prior to layoff.

8.3 TYPES OF APPOINTMENTS (cont.)

8.3 (8) Lateral Transfer

- (a) The Sheriff may appoint a person who has been a sworn law enforcement officer of any other jurisdiction provided that person has been placed on the lateral transfer eligibility list. A person selected for appointment as a lateral transfer must provide a complete record of previous law enforcement service, which shall become a part of the employee's permanent personnel file.
- (b) For purposes of promotions and assignments, a lateral transfer's seniority will begin with the starting date of employment with the Jefferson County Sheriff's Office.
- (c) Lateral transfer appointments shall be made only for the position of Deputy Sheriff. Under no circumstances shall lateral transfer appointments be made for promotional positions within the jurisdiction of the Merit Board.
- (c) Lateral Transfers who have retired from the Kentucky Employees Retirement System, the County Employees Retirement System or the State Police Retirement System to be hired, shall be subject to the provisions of KRS 70.291 through 70.293. Such hires shall serve for a term not to exceed one (1) year. The one (1) year employment term may be renewed annually at the discretion of the Sheriff.

9. PROBATION

9.1 PURPOSE

The probationary period shall be used as an opportunity to observe and appraise the newly-appointed or newly-promoted employee's work, to aid the employee in adjusting to the new position, and to take appropriate action to remove from the position any employee whose work performance fails to meet required standards.

9.2 DURATION

- 9.2 (1) The probationary period for all Deputy Sheriffs shall be twelve months of continuous service following an initial appointment or a promotional appointment.
- 9.2 (2) Any unpaid interruption of service during the probationary period, except for required military training purposes, shall not be counted as part of the probationary period, and the probationary period shall be extended by the same number of days as the employee was absent.
- 9.2 (3) Prior service in a class due to an emergency, seasonal, or acting appointment shall not be counted as part of the probationary period.
- 9.2 (4) The probationary period may be extended for any period of time up to an additional six months, upon request by the Sheriff and approval by the Board. The Sheriff's request for extension of a probationary period shall be in writing, with a copy to the employee, specifying the reasons for such action and recommended length of extension. The Board must approve such extension prior to the end of the initial probationary period.
- 9.2 (5) The probationary period may be extended by written agreement between the Sheriff and the affected employee, provided the employee is given at least five (5) days notice of the request for such an agreement. Any such agreement shall be reported to the Board, but shall not require Board approval.

9.3 TERMINATION AND COMPLETION OF PROBATIONARY PERIOD

- 9.3 (1) Pursuant to KRS 70.273 (4), any Deputy Sheriff serving an initial probationary period shall have no right to appeal the termination of said probationary status to the Board as the revocation of such appointment is a final and non-appealable action by the Sheriff.
- 9.3 (2) The effective date of the permanent appointment shall be the day immediately following the date of the completion of the probationary period.

9.4 REMOVAL DURING PROBATION

- 9.4 (1) An employee serving an initial probationary period may have such appointment revoked at the pleasure of the Sheriff at any time during the probationary period. Written notice of the revocation shall be provided to the affected employee and to the Board. An employee so removed during any initial probationary period shall be dismissed, and any such revocation is not appealable by the employee pursuant to KRS 70.273 (4).
- 9.4 (2) An employee so removed during a promotional probationary period shall be demoted to the class held immediately prior to the promotion.

9.5 EFFECT OF SEPARATION

An employee who separates from the Sheriff's Office during the probationary period and subsequently is reemployed shall begin a new probationary period.

9.6 EFFECT OF REASSIGNMENT

An employee who is reassigned during the probationary period shall not be required to begin a new probationary period, but shall complete his or her probationary period in the new position.