
**RULES AND REGULATIONS
FOR
JEFFERSON COUNTY DEPUTY SHERIFFS
CIVIL SERVICE COMMISSION
OF
JEFFERSON COUNTY, WEST VIRGINIA**



Approved by the Jefferson County Deputy Sheriffs Civil Service Commission


Effective December 22, 2021
Amended November 16, 2022

Submitted to the Sheriff of Jefferson County
November 29, 2022


Submitted to the Jefferson County Commission
November 29, 2022

Commissioners: Stephen C. Cox II, President
Willard L. Liston, Vice President
Jean Vezzosi, Commissioner


Administrative: Jacqueline C. Shadle, County Clerk



Stephen C. Cox, II Date



Willard Liston 11-30-22
Date



Jean Vezzosi 11-30-22
Date

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**RULES AND REGULATIONS
FOR THE JEFFERSON COUNTY DEPUTY SHERIFFS
CIVIL SERVICE COMMISSION**

PART I. GENERAL

Section 1.01 Purpose (§7-14-6)

- (a) As required in West Virginia Code Chapter 7 Article 14, the following rules and regulations are established to provide for the administration of the civil service requirements for the deputy sheriffs of Jefferson County, West Virginia. These rules and regulations have the full force and effect of law and apply to all those stipulated by West Virginia law. These rules and regulations supplement the West Virginia Code and §149CSR2 (Title 149; Legislative Rule, Governor's Committee on Crime, Delinquency and Correction, Series 2, Law Enforcement Training and Certification Standards) in so much as they provide for local requirements for the administration of the requirement of law.
- (b) To provide for employment security for deputy sheriffs by protecting said Deputies from the vicissitudes which may be present in the absence of the Civil Service statutes, and
- (c) To provide for a complete, all-inclusive and non-discriminatory system for the appointment, promotion, reduction, removal and reinstatement of deputy sheriffs.
- (d) These rules and regulations so prescribed may, from time to time, be added to, amended or rescinded.

Section 1.02 Authority of Promulgation

The Rules and Regulations contained herein are promulgated pursuant to the authority vested in the Deputy Sheriffs Civil Service Commission by West Virginia Code §7-14-7.

Section 1.03 Effective Date

These Rules and Regulations are effective upon approval of the Jefferson County Deputy Sheriffs Civil Service Commission (JCDS CSC) as noted on the front of these Rules and Regulations.

Section 1.04 Distribution of Copies

Copies of these Rules and Regulations shall be distributed to the Sheriff and each deputy sheriff. Additional copies may be obtained from the JCDS CSC.

Section 1.05 Amendments

Amendments to these Rules and Regulations may be adopted from time to time by JCDS CSC and shall become effective upon approval by the JCDS CSC. Copies of amendments to these Rules and Regulations shall be distributed in the same manner as the Rules and Regulations.

Section 1.06 Severability

If any provision of these Rules and Regulations or its application to any person or circumstance is determined to be unconstitutional, in conflict with State or Federal law or is otherwise invalid, such unconstitutionality conflict or invalidity shall not affect other provisions or application of these Regulations. And, to this end, the provisions of these Regulations will be interpreted to comply with law where possible, and when not possible, those provisions shall be held void and severable.

PART II. DEFINITIONS

As used in these Rules and Regulations, the term or phrase:

- (a) “Appointing Officer” means the Sheriff.
- (b) “Appointment” means the process whereby deputy sheriff vacancies which are not filled by promotion, reinstatement, reduction or non-competitive examination (provisional appointment) are filled by persons.
- (c) “Code of West Virginia” or “The Code” means the Code of West Virginia of 1931, as amended.
- (d) “County Commission” means Jefferson County Commission of West Virginia.
- (e) “Jefferson County Deputy Sheriffs Civil Service Commission” or “JCDSCSC” means the Jefferson County Deputy Sheriffs Civil Service Commission, duly constituted and appointed under the provisions of West Virginia Code §7-14-3.
- (f) “Deputy Sheriff,” “Deputy” or “Deputies” shall mean persons appointed by a Sheriff as his or her Deputies whose primary duties are within the scope of active, general law enforcement and as such are authorized to carry deadly weapons, patrol the highways, perform police Law Enforcement functions, make arrests, or safeguard prisoners. This definition shall not be construed to include any person or persons whose sole duties shall be the service of civil process and subpoenas, but such exclusion shall not preclude the service of civil process or subpoenas by deputy sheriffs.
- (g) “Eligibility List” means a list of persons arranged in descending order of their rating on examinations for the position or positions to which they are qualified for appointment.
- (h) “Promotion” means advancement in rank and base pay. The term “Promotion”, in the discretion of the JCDSCSC, may also mean a raise in base pay not shared by other members of the same rank.
- (i) “Promotion List” means a list of persons arranged in descending order of their final ratings on examinations for classes of positions for which they have completed in promotional examinations and to which they are qualified for appointment.
- (j) “Removing Officer” means the Sheriff.
- (k) “Suspension, Discharge, Removal, or Reduction in Rank or Pay” means any such suspension, removal, discharge, or reduction in pay, regardless of the time period involved.
- (l) “The Sheriff’s Office” means the Office of the Sheriff of Jefferson County, West Virginia.

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- (m) "Hearing Board" means the Sheriff's Conduct Review Board established pursuant to West Virginia Code §7-14C-1(4).
 - (n) "Punitive Action" means any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand or transfer for purposes of punishment.
 - (o) "Transfer for Purposes of Punishment" means an involuntary transfer from one assignment to another assignment as a result of a complaint against the member as punishment or an involuntary transfer for reasons other than economy, administrative efficiency, competence, training or managerial discretion. An affected officer shall have the initial burden of establishing that any transfer is for punitive purposes. If so established, the Sheriff will have the ultimate burden of establishing good cause for the punitive transfer.
 - (p) "Business day" means days when County Offices are open for the general transactions of public business.

PART III. DEPUTY SHERIFFS CIVIL SERVICE COMMISSION

Section 3.01 Organization of the JCDS CSC

(a) Membership -

- (i) The JCDS CSC shall consist of three members, whose appointment and removal shall be in accordance with the terms of West Virginia Code §7-14-3.*
- (ii) Temporary absence - Recusal. In the event that a JCDS CSC commissioner is temporarily unable to fulfill his or her duties for reasons including but not limited to military service, medical necessity or recusal from an issue or case, that Commissioner's appointing authority shall designate a temporary replacement Commissioner to act in the stead of its appointed Commissioner for that case or issue or for the term of the absence or disability.*

(b) President; Vice President -

- (i) At the first regularly scheduled meeting after the first day of July, each year, the three (3) members of the JCDS CSC shall elect one of their members to serve as President of JCDS CSC and one of their members to serve as Vice President of JCDS CSC. The term of each shall be one (1) year from the date of election.*
- (ii) It shall be the duty of the President to preside over meetings and to generally act as spokesman for the JCDS CSC. The President shall also cause a complete record of JCDS CSC's actions and activities to be kept.*
- (iii) It shall be the duty of the Vice President to perform the duties of the President in the event of the President's absence from a meeting, or in the event of the President's death, resignation from the JCDS CSC or other permanent incapacity, until such time as a new member is appointed and a new president is elected.*
- (iv) In the event of the death, resignation or other incapacity of the President, a new President shall be elected in the manner provided for above immediately following the appointment of a new member Commissioner.*

(c) Quorum - Except as hereinafter provided, two (2) members of the JCDS CSC shall constitute a quorum for the transaction of business.

(d) Meetings - The JCDS CSC shall meet at the call of the President or any Commissioner.

(e) Clerk of the JCDS CSC

- (i) The County Clerk shall be ex officio clerk of the JCDS CSC and shall supply to JCDS CSC all necessary clerical and stenographic services for the work of JCDS CSC. §7-14-4*

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- (ii) *It shall be the duty of the County Clerk of every such county to cause suitable and convenient rooms and accommodations to be assigned and provided, furnished, heated and lighted for carrying on the work and examinations of the JCDCSC. The JCDCSC may order from the proper authorities the necessary stationery, postage stamps, official seal and other articles to be supplied, and the necessary printing to be done, for its official use. It shall be the duty of the County Clerk and other county officials of every such county to aid the JCDCSC in all proper ways in carrying out the provisions of this article, and to allow the reasonable use of public buildings, and to heat and light the same, for holding examinations and investigations and in all proper ways to facilitate the same. The County Clerk of each such county is hereby required to appropriate sufficient funds for the purpose of carrying out the provisions of this article. §7-14-5*

Section 3.02 Liberal Construction

These Regulations shall be liberally constructed to accomplish the objectives and purposes of the JCDCSC.

Section 3.03 Powers and Duties of the JCDCSC (§7-14-6)

- (a) Prescribe and enforce rules and regulations for carrying into effect the provisions of this article. All rules and regulations so prescribed may, from time to time, be added to, amended or rescinded.
- (b) Keep minutes of its own proceedings and records of its examinations and other official actions.
- (c) Make investigations, either sitting as a body or through a single commissioner, concerning all matters touching the enforcement and effect of the provisions of this article and the rules and regulations prescribed hereunder or concerning the action of any examiner or subordinate of JCDCSC or any person in the public service with respect to the execution of this article; and, in the course of such investigations, each commissioner shall have the power to administer oaths and affirmations and to take testimony.
- (d) Shall have the power to subpoena and require the attendance of witnesses and the production of books and papers pertinent to the investigations and inquiries herein authorized, and
- (i) *Examine them and such public records as it shall require, in relation to any matter which it has the authority to investigate.*
- (ii) *The fee of such witnesses for attendance and travel shall be the same as for witnesses before the circuit courts of this state and shall be paid from the appropriation for the incidental expenses of the JCDCSC.*
- (iii) *All officers in the public service and they're deputies, clerks, subordinates and employees shall attend and testify when required to do so by the JCDCSC.*

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- (iv) *Any disobedience to, or neglect of, any subpoena issued by JCDCSC, or any one of them, to any person, shall be held in contempt of court, and shall be punished by the Circuit Court of Jefferson County, West Virginia or the judge thereof in vacation, as if such subpoena had been issued by the court.*
- (e) The JCDCSC will prepare a Position or Rank Classification Plan that will include position descriptions for the Jefferson County Sheriff's Office.
- (i) *The plan will be updated as needed. Further, it will be reviewed, not to exceed every three (3) years.*
- (ii) *Once the plan is complete and approved, a copy of the approved plan will be distributed as follows:*
- 1) Jefferson County Sheriff
 - 2) President of the Jefferson County Deputy Sheriffs Association
 - 3) Jefferson County Commission
- (f) Make an annual report to the County Commission and Sheriff showing its own actions, its rules and regulations, including all exceptions (amendments) thereto in force, and the practical effects thereof, and any suggestions it may have for the more effectual accomplishment of the purposes of this article. Such report shall be available for public inspection five (5) days after it shall have been delivered to the County Commission and sheriff. This annual report will be presented in the month of July.
- (g) The JCDCSC shall provide for the implementation of the purposes of the JCDCSC:
- (i) *shall hold such hearings as may be required by law or such hearings as it may, in its discretion determine to be necessary, in accordance with these rules and regulations; and*
- (ii) *shall have the powers to employ legal counsel and other professional services, at County expense, to assist the JCDCSC in its duties;*
- (iii) *shall have the power to initiate legal action in furtherance of the objections and purposes of the JCDCSC; and*
- (iv) *shall have all powers expressed in the Code or these Regulations and such other powers as may be fairly implied therefrom.*

PART IV. ESTABLISHING A LIST OF ELIGIBLE CANDIDATES

Section 4.01 Application of this part

Deputy vacancies not filled by promotion, reinstatement, reduction or non-competitive examination (provisional appointment), shall be filled in accordance with the provisions of this part.

Section 4.02 JCDCSC to be notified by Appointing Officer or Sheriff

The Appointing Officer or Sheriff shall notify the JCDCSC of any vacancy which he desires to fill by appointment. In conjunction with such notification, the Appointing Officer or Sheriff shall request that the names of three persons eligible for appointment be certified to him by the JCDCSC.

Section 4.03 Procedure upon receipt of request from Appointing Officer or Sheriff

Upon receipt of request for such names from the Appointing Officer or Sheriff the JCDCSC may certify to the Appointing Officer or Sheriff names from any existing list of eligible candidates from which appointments shall be made. Alternatively, JCDCSC may terminate any existing list of eligible candidates, or, if no such list exists, JCDCSC shall proceed to establish a new list of eligible candidates in accordance with these rules and regulations and certify names from the new list of eligible candidates to the Appointing Officer or Sheriff.

Section 4.04 Public Notice (§7-14-9)

- (a) Upon determining to establish a list of eligible candidates, the JCDCSC shall give public notice of the following:
 - (i) *The fact that the JCDCSC will maintain or establish a list of eligible candidates; and*
 - (ii) *the requirements that must be satisfied in order to be placed on the list of eligible candidates; and*
 - (iii) *the date on which the written and other competitive examinations for the position will be begin.*
 - (iv) *Locations at which applications for the position may be obtained; and*
 - (v) *the last date on which applications for the position will be accepted by the JCDCSC; but not to prevent JCDCSC from having an open acceptance of applications.*
- (b) Each such notice shall be distributed at the discretion of the JCDCSC to assure a reasonably diverse applicant pool that a list of eligible candidates is being maintained.

Section 4.05 Application for Eligibility Form

- (a) Shall be available from all locations determined by the JCDCSC such as any County Clerk's Office, any County Commission Office, any Sheriffs' Office and any County Court House on a continuing basis during normal business hours Monday through Friday. This provision does not preclude the distribution of preliminary applications by anyone else nor does it preclude distribution at other times or electronically. The form shall request the data required by West Virginia Code and other information deemed necessary by the JCDCSC.

(b) The following information must be submitted by the applicant:

- (i) *Full Legal Name*
- (ii) *Age*
- (iii) *Date of Birth*
- (iv) *Place of Birth*
- (v) *Social Security Number*
- (vi) *Physical Address*
- (vii) *Email Address*
- (viii) *Telephone Number(s)*
- (ix) *United States Citizenship*
- (x) *Military Experience*
- (xi) *Certified Law Enforcement*
- (xii) *Waiver of Liability to Perform Agility*
- (xiii) *Swear and affirm*

(c) The completed application shall be submitted in person, by mail or email to:

Jefferson County Deputy Sheriffs Civil Service Commission
c/o Jefferson County Clerk
Jefferson County Courthouse
100 East Washington Street
PO Box 208
Charles Town, WV 25414
JCDESCSC@jeffersoncountywv.org

Section 4.06 JCDESCSC to establish eligible list –Notice of removal or disqualification

- (a) JCDESCSC shall establish and maintain, by comprehensive evaluations and examinations, an eligible list from persons who make application for appointment under provisions of this part. The list of eligible candidates shall continue in full force and effect until:
 - (i) *the list is exhausted by appointments therefrom or removal of names for other reasons;*
 - (ii) *a resting or unused passage of three (3) years' time from the date the applicant completes the written exam.*

Section 4.07 Refusal of JCDESCSC to examine or certify (§7-14-10)

- (a) JCDESCSC may refuse to examine an applicant, or after examination to certify as eligible one, who does not meet the requirements of this part, based upon information coming into its hands by way of the application, or any other source. Upon determining that an applicant will not be admitted to the examination, the JCDESCSC shall send a notice to the applicant at the address listed on his or her application. The applicant will then have a period of fourteen (14) calendar days to request a hearing before JCDESCSC. Failure to request a hearing within fourteen (14) calendar days of notice being mailed to the applicant's address on the application will be deemed a waiver of the applicant's right to contest the decision of JCDESCSC.

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- (b) Any applicant removed from the list of eligible candidates due to failure to pass any portion of the testing, or disqualified by the JCDSCSC for any other reason shall be notified of such removal by the Clerk of the JCDSCSC by notice sent to the email address listed by the applicant on his or her application. The notice shall state that the applicant may request a hearing on his or her disqualification or removal provided that such request is made in writing, sent to the Clerk of the JCDSCSC and is actually received by the Clerk of the JCDSCSC within fourteen (14) calendar days from the date of the notice. Any applicant who fails to request a hearing within fourteen (14) calendar days shall have no right to contest his or her or her removal.

Section 4.08 News Media

Members of the press/news media shall be permitted to attend any examination for the appointments or promotions to all positions of deputy sheriff. No member of the press/news media will be permitted to film/photograph or any other form of electronic recording of any portion of the examination or the applicant. Additionally, no member of the press/news media will be permitted to disturb any applicant by asking questions, conducting interviews or broadcasts while the examination is being administered.

Section 4.09 Examinations

- (a) JCDSCSC shall make rules and regulations providing for both competitive and medical examinations for the position of deputy sheriff in each such county subject to the provisions of this article, for appointments to the position of deputy sheriff. §7-14-7
- (b) All competitive examinations for appointments or promotions to all positions of deputy sheriff shall be practical in their character, and shall relate to such matters, and include such inquiries, as will fairly and fully test the comparative merit and fitness of the person or persons examined to discharge the duties of the position sought by or them. §7-14-9
- (c) Examinations can be given in any sequence at the discretion of the JCDSCSC or single Commissioner.
- (d) All exams shall be proctored by member(s) of the JCDSCSC. The JCDSCSC may request the assistance of its Clerk and Deputies.
- (e) Written Examination
 - (i) *JCDSCSC shall select an appropriate written examination which meets the requirements of West Virginia Code §7-14-9 and shall cause the same to be administered and promptly scored.*
 - (ii) *At least one member of the JCDSCSC will proctor and monitor each testing.*
 - (iii) *Each applicant will be required to appear in person at the time and place specified by the JCDSCSC.*
 - (iv) *Applicants must provide a government issued photo identification to the test proctors.*
 - (v) *The Written examination requires a minimum passing score of 60% in order for an applicant to be given further consideration.*

(f) Retesting

- (i) *All eligible applicants may retest at the next advertised testing date. The most recent test score shall be the score used for the Eligibility List.*
- (ii) *Any applicant that has been previously removed from an eligibility list for cause, shall be permitted to retest at the next advertised testing date providing they meet the minimum requirements.*

(g) Physical Fitness Examination

All applicants who require basic entry-level law enforcement training must achieve a passing score on all three (3) physical fitness examines listed below. These requirements are set forth by the West Virginia Law Enforcement & Professional Standards (LEPS) subcommittee §149-2-8(5)a. Currently LEPS uses a passing score of the 40th percentile of the Coopers Institute standards.

- (i) *Push Ups*
- (ii) *Sit Ups*
- (iii) *1.5 mile run*

Section 4.10 Computation of scores and compilation of list of eligible candidates

- (a) Applicants shall be ranked in the order of merit adding the below score cumulatively for a possible total score of 105 points.
 - (i) *Written examination of a possible 100 points.*
 - (ii) *Veteran preference shall receive an additional five (5) points in accordance with West Virginia Code §6-13-1.*
- (b) Examination scores will be posted at the office of the JCDSCSC and at such other places designated by the JCDSCSC.
- (c) Any applicant who wishes to challenge the accuracy of the scoring of his or her or her examination shall notify JCDSCSC of his or her or her challenge within seven (7) calendar days after the results are posted at the office of the JCDSCSC. After the results are posted for seven (7) calendar days, no challenge will be considered.

Section 4.11 Anti-discrimination provision; prohibited inquiry (§7-14-14)

No question on the applications or the examinations mentioned in this part, whether oral or written, shall be framed or designed so as to illicit from any applicant information linked to such applicant's political or religious opinions or affiliations. No applicant shall be discriminated against on the basis of race, religion, color, nation origin, ancestry, sex, age, blindness, handicap or familial status.

Section 4.12 Appointment from eligibility list (§7-14-11)

- (a) When requested by the Appointing Sheriff, JCDSCSC will forward the names of at least the top three test scorer(s). In the event there is a tie score within the top three scorer(s), the names of those individuals that are tied will be included.

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- (b) When an applicant has been passed over in favor of a candidate which ranks below that applicant on the eligible list on three occasions, the candidate shall be stricken from the current list of eligible candidates and disqualified from further consideration consistent with the provisions of West Virginia Code §7-14-11. This disqualification doesn't prevent the applicant from reapplying for the eligible list after six months.
 - (c) An applicant certified by JCDCSCSC but not hired by the Sheriff for any reason shall have no right of appeal to JCDCSCSC as JCDCSCSC has no jurisdiction or authority over ultimate hiring decisions, only certification.
 - (d) JCDCSCSC may remove or withhold from certification the name of an applicant from the list of eligible candidates for any of the following reasons:
 - (i) *Filing of a statement by the candidate eligible that he is not willing to accept appointment.*
 - (ii) *The candidate declines an appointment.*
 - (iii) *Failure to respond within seven (7) calendar days to any written inquire relative to availability for appointment.*
 - (iv) *Any cause specified for disqualifications in these rules.*
 - (v) *Failure to report for duty or any appointment within the times prescribed by the appointing authority of the time give was reasonable.*
 - (vi) *Expiration of the term of eligibility on the eligible list.*
 - (vii) *No candidate shall be permitted to suspend or temporarily delay their eligibility.*

Section 4.13 Noncompetitive examination for filling vacancy; provisional appointment (§7-14-12)

- (a) Whenever there are urgent reasons for filling a vacancy in any position of deputy sheriff and there is no list of persons eligible for appointment after a competitive examination, the appointing Sheriff may nominate a person to JCDCSCSC for noncompetitive examination;
- (b) If such nominee shall be certified by the JCDCSCSC as qualified, after such noncompetitive examination and a medical examination, he may be appointed provisionally to fill such vacancy until a selection and appointment can be made after competitive examination in the manner prescribed in this Article but the provisional appointment shall not continue for a longer period than three months, nor shall successive provisional appointments, be made to the same position, under the provisions of these rules..

Section 4.14 Reinstatement (§7-14-8)

- (a) In the event an applicant formerly served as a deputy sheriff in Jefferson County, the following guidelines must be adhered to:
 - (i) *Must have served as a deputy sheriff in Jefferson County for a period of more than six months.*
 - (ii) *Resigned as a deputy sheriff at a time when there were no charges of misconduct or other misfeasance pending against the applicant.*
 - (iii) *Makes application for reinstatement within a period of two years next preceding the date of said application.*
 - (iv) *At the time of said application, the applicant shall resides within Jefferson County, WV.*
 - (v) *Is not sixty-five years of age or older.*
 - (vi) *Shall undergo a medical examination as required in §7-14-9.*
 - (vii) *Shall not be required to complete a written exam.*
- (b) Upon determination by JCDSCSC that the applicant is eligible for reinstatement, a letter will be sent to the Sheriff.
- (c) If the applicant shall be appointed by reinstatement, they shall be the lowest in rank in the Sheriff's office next above the probationers of the office.

PART V. BACKGROUND INVESTIGATION

The Office of the Sheriff conducts the background investigation on all applicants. Immediately upon receiving an Application for Eligibility List, the JCDCSC will forward a copy to the Sheriff's office for their use. JCDCSC shall consider the information presented and may certify or refuse to certify an applicant based upon the information available. In the alternative, JCDCSC may request additional information or further investigation before determining whether or not to certify any applicant.

PART VI. RANK STRUCTURE

The Rank Structure shall be as follows as approved on August 5, 2021:

- (a) One (1) Captain,
- (b) Two (2) Lieutenants,
- (c) Seven (7) Sergeants,
- (d) Eight (8) Corporals
- (e) Deputies as hired.

PART VII. PROMOTIONS

Section 7.01 Vacancies (§7-14-13)

- (a) The Sheriff shall inform JCDCSCSC of any vacancy announcement in writing to the JCDCSCSC at the time a vacancy is available or his or her desire to dissolve such position.
- (b) Vacancies in positions of deputy sheriff shall be filled, so far as practicable, by promotion from among persons holding positions in the next lower grade.

Section 7.02 Eligibility (§7-14-13)

- (a) No person shall be eligible for promotion from the lower grade to the next higher grade until such person shall have completed at least two years of service in the next lower grade:
- (b) The determination of eligibility for promotion shall be made as of the date the position is vacated. *Musick v. Loderee (Supreme Court of Appeals of West Virginia 1960)*
- (c) Promotions shall be based upon merit and fitness, to be ascertained by competitive examinations to be provided by the JCDCSCSC, and upon the superior qualifications of the persons promoted, as shown by their previous service and experience.
 - (i) ***Fitness:*** *Fitness will be determined by a medical examination per §7-14-9.*
 - (ii) ***Merit:*** *Merit will be determined by a competitive examination provided by JCDCSCSC.*
 - (iii) ***Previous Service:*** *All annual performance evaluations received in their current rank shall be used in consideration for promotions.*
 - (iv) ***Experience:*** *Consideration will be given to the time in service as deputy sheriff with the Jefferson County Sheriff's Office to include time of service in present rank if applicable.*
- (d) The promotional eligibility listing will expire immediately after the vacancy(s) is/are filled.

Section 7.03 Competitive Examinations (§7-14-9)

- (a) The written examination is administered and shall be scheduled within 30 days of the vacancy announcement by the Sheriff.
- (b) Public Notice. Adequate public notice of the date, time and place of every competitive examination held, together with information as to the position to be filled by promotion, shall be given at least two weeks prior to such competitive examination. This notice shall be given in the following manner:
 - (i) *Notice of examination will be posted in a public place at the JCDCSCSC office.*
 - (ii) *A copy of notice of examination shall be given to the Sheriff.*
 - (iii) *A copy of notice of examination shall be given to the President of the Jefferson County Deputy Sheriffs Association.*

(c) **Written Examination**

- (i) *JCDSCSC shall select an appropriate written examination which meets the requirements of West Virginia Code §7-14-9 and shall cause the same to be administered and promptly scored.*
- (ii) *At least one member of the JCDSCSC will proctor and monitor each testing.*
- (iii) *Each applicant will be required to appear in person at the time and place specified by the JCDSCSC.*
- (iv) *Applicants must provide a government issued photo identification to the test proctors.*
- (v) *The written examination requires a minimum passing score of 60% in order for an applicant to be given further consideration.*

Section 7.04 Weight Assigned to Each Criteria

(a) **Fitness:** Pass or Fail

(b) **Merit:** Total percentage score received on the written examination.

(c) **Previous Service:** Scores received on all performance evaluations received in their current rank shall be added and divided by the number of performance evaluations to obtain an average score. In the event only one performance evaluation exists, the score will be used as the average.

(d) **Experience:** Time in Service. The total months or partial months (days) of service from the appointment date with JCSO divided by 12.

(e) The combined scores earned from Merit, Previous Service and Experience will be used to calculate the final promotional score.

(f) Below is an example to demonstrate mathematically how the final promotional score will be calculated by the JCDSCSC:

- (i) *Deputy XX scored 75 out of a possible score of 100 on the written promotional test.*
- (ii) *On the date the promotional test is taken, Deputy XX has 10 years, 10 months and 10 days total time with the JCSO.*
- (iii) *Deputy XX has had 10 performance appraisals in his or her current rank that averages out to 75.*

1) Calculations for Deputy XX

10 years x 12 months = 120 (1 point for each month of service)

10 months = 10

10 additional days divided into the number of days of the month that the test is administered. For this calculation assume it is a month with 30 days

.10 divided into 30 = .333

Years of Service 120.000

Months of Service 10.000

Days of Service .333

2) Promotional Score for Deputy XX

Time in Service score: 130.333

Written Promotional test score: 75

Average of 10 performance appraisals: 75

Final promotional score for Deputy XX 280.333

Section 7.05 Distribution of the Promotional List

- (a) The list containing the final score for each candidate will be posted at the office of the JCDSCSC, listed in ranking order. The list will contain only the total score value and not each individual category.
- (b) The final scores will be sent to the JCSO, the President of the JCDA and to each participating candidate.

Section 7.06 Appointment

- (a) The Sheriff shall make an appointment from the eligibility listing based on the ranking order.
- (b) In the event that the final promotional score results in a tie of two or more candidates, the Sheriff shall have sole discretion to select an appointment from said candidates.
- (c) The Sheriff will notify JCDSCSC, in writing, of his or her selection(s).

Section 7.07 Confirmation of Final Promotional Score

A deputy who wishes to confirm how their final promotional score was calculated mathematically may request an appointment with JCDSCSC by submitting their request in writing via email to jcdscsc@jeffersoncountywv.org.

**PART VIII. GENERAL ENTITLEMENT TO HEARINGS; GRIEVANCES;
REMOVAL; DISCHARGE; SUSPENSION; REDUCTION IN RANK;
REDUCTION IN FORCE AND MAXIMUM AGE**

Section 8.01 Application of this Part

- (a) This Part shall govern and determine the right of an individual to a hearing before the JCDCSC, and it shall operate to supplement the other provisions of law granting such a right.
- (b) All hearings provided for in these Regulations shall be governed by the provisions relating to procedures found in Parts VII and VIII of these Regulations.

Section 8.02 Persons Entitled to Hearing

- (a) Any person aggrieved by the JCDCSC's refusal to accept an application for appointment or promotion, refusal to test or otherwise evaluate, refusal to certify as eligible, or any other act of the JCDCSC to the detriment of such person, shall be entitled to a hearing before the JCDCSC provided the aggrieved person files a written request for a hearing with the JCDCSC within fourteen (14) calendar days. Failure to request a hearing within fourteen (14) calendar days will be deemed a waiver of any right to a hearing.
- (b) Any member or group of members of the Office of the Sheriff or any other person who believes that any provisions of the Civil Service Act or of these Rules and Regulations has been violated by virtue of any order or instruction issued in the Office of the Sheriff, or any action or act of the JCDCSC, may petition the JCDCSC for a hearing provided the aggrieved person files a written request for a hearing with the JCDCSC within fourteen (14) calendar days. Failure to request a hearing within fourteen (14) calendar days will be deemed a waiver of any right to a hearing. The JCDCSC shall promptly consider any such petition, and may, in its discretion, grant such person or persons a hearing upon the issues identified in the petition. The JCDCSC does not have jurisdiction to manage the Office of the Sheriff, its jurisdiction is limited to matters of Civil Service law.
- (c) Any member of the Office of the Sheriff removed, discharged, suspended or reduced in rank or pay, shall be entitled to a hearing, providing that such person requests a hearing within fourteen (14) calendar days of any written notification of any such removal, discharge, suspension or reduction in rank or pay provided the aggrieved person files a written request for a hearing with the JCDCSC within fourteen (14) calendar days. Failure to request a hearing within fourteen (14) calendar days will be deemed a waiver of any right to a hearing.

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- (d) Any member of the Office of the Sheriff who has suffered a punitive action ordered as a result of a hearing before a Hearing Board pursuant to WV Code §7-14C. Any member who claims to have suffered a punitive action without a Hearing Board may request a hearing provided the aggrieved person files a written request for a hearing with the JCDSCSC within fourteen (14) calendar days. Failure to request a hearing within fourteen (14) calendar days will be deemed a waiver of any right to a hearing. Any such hearing will be limited to whether a Hearing Board should have been held. If a Hearing Board should have convened, the appeal will be remanded to the Hearing Board.
 - (e) The Sheriff may also appeal the decision of the Hearing Board if he or she believes the Sheriff's office would be adversely affected by the order or action of the Hearing Board.
 - (f) Any member of the Office of the Sheriff sought to be removed by a citizen's petition provided for in WV Code §7-14-15, shall be entitled to a hearing, providing that such person request a hearing within fourteen (14) calendar days of notification of any such removal petition.

Section 8.03 Rules Applicable to Cases of Removal, Discharge, Suspension, Reduction in Rank or Reduction in Pay.

- (a) Notice of Charges
 - (i) *In every case of removal, discharge, suspension or reduction in rank or pay, a copy of the statement of reasons shall be given to the deputy removed, discharged, suspended or reduced of the reasons therefore by the Sheriff.*
 - (ii) *A copy of such statement shall also be forwarded to the JCDSCSC for filing.*
 - (iii) *Upon the filing of such notice, the deputy may demand a public hearing.*
 - (iv) *If the deputy desires to file an answer to the charge against him, he shall do so within fourteen (14) calendar days of the receipt of such statement of reason from the Sheriff.*
 - (v) *A copy of said answer shall be forwarded to the JCDSCSC and to the Sheriff.*
 - (vi) *Such answer shall contain a demand for a hearing if the deputy desires a hearing.*
- (b) Hearing
 - (i) *A hearing shall be held in accordance with the provisions of Parts VII and VIII of these Rules and Regulations, and shall be held within fourteen (14) calendar days of the filings of the charges in writing and demand for a hearing by the deputy, or the filing of the answer thereto, whichever shall last occur, unless a longer period of time is agreed to by the deputy.*
 - (ii) *If an answer is filed, at least five (5) calendar days notice of the date, time and place of such hearing shall be given to the parties. The time for any hearing may be extended with the consent of the affected parties.*

(c) Burden and Standard of Proof at Hearing -

At such hearing, the burden of proof shall be upon the Sheriff to justify his or her action, by a preponderance of the evidence unless the West Virginia Rules of Civil Procedure provide a higher burden for any specific charge such as fraud.

(d) Rules of Evidence

- (i) *Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.*
- (ii) *The rules of evidence as applied in civil cases in the Circuit Court of Jefferson County, West Virginia shall be followed.*
- (iii) *When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.*
- (iv) *The JCDCSC shall be bound by the rules of privilege recognized by law. Objections to evidentiary offers shall be noted in the record.*
- (v) *Any party to any such hearing may vouch the record as to any excluded testimony or other evidence.*
- (vi) *All evidence, including papers, records, memoranda and documents in the possession of any party, of which it desires to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.*
- (vii) *Every party shall have the right of cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence.*
- (viii) *The JCDCSC may take notice of judicially cognizable facts. All parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed.*
- (ix) *Upon motion in writing served by any party assigning error or omission in any part of any transcript of the proceedings had and testimony taken at any such hearing, the JCDCSC shall settle all differences arising as to whether such transcript truly discloses what occurred at the hearing and shall direct that the transcript be corrected and revised in the respects designated so as to make it conform to the whole truth.*

(e) Reinstatement or Other Relief

- (i) *If the Sheriff fails to show just cause for his or her action at said hearing, the deputy removed, discharged, suspended or reduced shall be reinstated with full pay forthwith, without any additional order, for the entire period during which the deputy may have been prevented from performing his or her usual employment, and no charges shall be officially recorded against the deputy's record.*
- (ii) *A written record of all testimony taken at the hearing shall be kept and preserved by the JCDCSC which record shall be sealed and not open to public inspection unless an appeal is taken from the action of the JCDCSC.*

Section 8.04 Rules Applicable to Hearings Conducted by Reason of Petition for Vacating Appointments (§7-14-15)

- (a) Any three residents of the County may file their written petition with the JCDSCSC thereof setting out therein the grounds upon which a deputy should be removed for violation of WV Code §7-14-15(a).
- (b) Notice of the filing of such petition shall be given by said JCDSCSC to the accused deputy, which notice shall require to file a written answer to the charges set out in the petition within thirty (30) calendar days of the date of such notice. Said answer shall contain a demand for a hearing if one is desired by the deputy; or without a demand therefore, the JCDSCSC may set a time for a public hearing on such charges, which hearing shall be within thirty (30) calendar days of the filing of said answer, subject however, to any continuances which may in the discretion of the JCDSCSC be granted.
- (c) The conduct of such hearing shall be in accordance with the provisions of Parts VIII and IX of these Rules and Regulations, and the relief granted by the JCDSCSC in the case of such petition shall be in accordance with the provisions of WV Code §7-14-15.

Section 8.05 Appeal From Decision of Conduct Review Board

- (a) A Hearing Board has original jurisdiction to decide all cases of punitive action before punitive action is taken. If the proposed action is discharge, suspension or reduction in rank or pay, the punitive action may not be taken until ordered by the Hearing Board except that the Sheriff, or his or her designee, may immediately temporarily suspend from duty any deputy, pending an investigation, who reports on duty under the influence of alcohol or controlled substances or apparent emotional or mental distress which would prevent the deputy from performing his or her duties. In addition, punitive action may be taken prior to presentation to a Hearing Board if exigent circumstances exists.
- (b) The Sheriff may issue a written reprimand or order a transfer for purposes of punishment after providing the deputy with a notice of the reasons for such action and notice that the deputy is entitled to a hearing on the issues by a Hearing Board. The punitive action may be imposed immediately with the deputy having a right to appeal to the Hearing Board.
- (c) The JCDSCSC has original jurisdiction to determine appeals from Hearing Board Orders discharging, suspending and reducing a deputy in rank or pay. The JCDSCSC will hear all such appeals unless the parties stipulate to an appeal on the record established before the Hearing Board.
- (d) The JCDSCSC 's jurisdiction over written reprimands and transfers for the purpose of punishment is appellate only. Original jurisdiction over these disciplinary sanctions rests solely with the Hearing Board. The JCDSCSC will decide such issues based solely on the Hearing Board record.

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- (e) The standard of review in cases decided on the record before the Hearing Board is substantial deference to the Hearing Board's findings of fact and review of the Hearing Board's legal conclusions. In all instances, the burden of proof to sustain the punitive action remains on the Sheriff.

Section 8.06 Reduction in Force.

- (a) If for reasons of economy or other reasons it is deemed necessary by any appointing sheriff to reduce the number of his or her deputies, the Sheriff shall follow the procedure set forth in this subsection.
- (b) The reduction in the numbers of the deputies shall be effected by suspending the last person or persons, including probationers, who have been appointed as deputies.
- (c) The removal shall be accomplished by suspending the number desired in the inverse order of their appointment.
- (d) In the event the number of deputies is increased in numbers to the strength existing prior to the reduction of deputies, the deputies suspended under the terms of this subsection shall be reinstated in the inverse order of their suspension before any new appointments of deputies in Jefferson County are made.

Section 8.07 Maximum Age

No deputy may serve as a deputy after attaining the age of sixty-five (65) years.

PART IX. HEARINGS

Section 9.01 Application of this Part.

- (a) Unless otherwise specified in these or other rules and regulations, the rules in this section shall govern and apply to hearings conducted by the JCDCSCSC pursuant to the authority vested in it under the laws of West Virginia or regulations promulgated pursuant thereto.

Section 9.02 Hearings by the JCDCSCSC; Presiding Officer

- (a) Hearings shall be conducted before the JCDCSCSC.
- (b) The Presiding Officer at a hearing shall be designated by the President of the JCDCSCSC and may be the President of the JCDCSCSC or one of the Commissioners.
- (c) The name of the Presiding Officer shall be designated in the Notice of Hearing.

Section 9.03 Powers of Presiding Officer

- (a) The Presiding Officer at every hearing may, subject to the rules set forth in this section shall conduct generally the hearing, and in connection therewith:
 - (i) *Cause the administration of oaths and affirmations*
 - (ii) *Issue subpoenas authorized by law*
 - (iii) *Rule on offers of proof and receive evidence*
 - (iv) *Permit evidentiary depositions to be taken and read as in civil actions in the Circuit Court of Jefferson County, West Virginia and discovery depositions with the consent of the Presiding Officer*
 - (v) *Regulate the course of the hearings*
 - (vi) *Dispose of procedural requests or other matters*
 - (vii) *Hold conferences for the settlement or simplification of the issues with the consent of the parties*
 - (viii) *Take any other action in connection with such hearing authorized by law or fairly implied in the jurisdiction of the JCDCSCSC*
 - (ix) *With regard to each of these duties and powers, decisions by the Presiding Officer shall be subject to review by the full JCDCSCSC.*
- (b) In all cases, final orders and final decisions shall be made by the JCDCSCSC and entered by the County Clerk. In no case shall a Presiding Officer enter a final order or final decision.

Section 9.04 Notice of Hearing; Contents of Notice

- (a) Unless otherwise specified in these Rules and Regulations, no hearing shall be conducted under these rules or otherwise unless the parties to the proceeding shall have received written notice.
- (b) Each written notice of the hearing shall contain the date, time and place of the hearing and a short and plain statement of matters which are to be the subject of or asserted at the hearing.

Section 9.05 Place of Hearing

The date, time and place of each hearing shall be determined by the President of the JCDCSC.

Section 9.06 Representation at Hearings

At hearings held pursuant to these Rules and Regulations, any party may represent himself or be represented by an attorney at law admitted to practice before any Circuit Court of West Virginia.

Section 9.07 Waiver of Evidentiary Presentation

- (a) Parties entitled to an evidentiary hearing may waive such right in writing, but unless all parties file timely waivers, a hearing will be conducted. Parties waiving such hearing need not appear.
- (b) Any party who desires to submit written pleadings, comments or information in lieu of an evidentiary presentation may submit such documents to the Presiding Officer for consideration by the JCDCSC.
- (c) Waivers must be unequivocal and request the JCDCSC to decide the matter at issue on the pleadings and written record in case, including any stipulations the parties might enter.
- (d) When a hearing is waived under the provisions of this section, the written record in the case shall be submitted to the JCDCSC for decision.

Section 9.08 Proposed Findings, Conclusions and Orders

The Presiding Officer may request the submission of proposed findings of fact, conclusions of law and orders, together with a supporting brief. Such proposals and briefs, if submitted, shall be served upon all parties and shall contain adequate references to the authorities relied upon.

Section 9.09 Hearings Not Public Unless Requested

- (a) Hearings conducted under these Rules and Regulations, except when the context clearly indicates otherwise, are considered personnel matters and are therefore private and not open to the public.
- (b) If the deputy who will be affected by the actions of the JCDCSC requests a public hearing, the hearing will be open to the public.
- (c) The JCDCSC reserves the right to close portions of any hearing to protect confidentiality and other legitimate reasons.
- (d) Deliberations of the JCDCSC are not public.

Section 9.10 Final Decision by the JCDS CSC

- (a) Upon completion of the proceedings provided for in these Rules and Regulations, the JCDS CSC shall review, consider and decide the case and enter, where appropriate, a final decision and order.

- (b) In cases where any Commissioner of JCDS CSC is not present at a hearing, the Presiding Officer shall forward the record in the case to that Commissioner for review, together with such written commentary and recommendations as the Presiding Officer deems appropriate. Such recommendations and commentary, if any, shall be made a part of the record of the case.

PART X. Position Classification Plan