

## **RULE 12**

### **DISCIPLINARY ACTIONS AND APPEALS**

#### **12.01 DISCIPLINARY ACTION DEFINED :**

A disciplinary action is any action taken against an employee by the Department due to improper conduct by the employee that will result in termination, suspension, demotion, reduction in rank, or refusal to rehire at the end of a contractual period.

#### **12.02 IMPROPER CONDUCT DEFINED :**

Improper conduct is defined as any of the below-listed reasons and shall be grounds for disciplinary action. Just cause shall be determined to be satisfied when one or more of the below reasons have been adequately documented by incident or evaluation reports or other supporting data.

- (a) Absence without leave
- (b) Incapacity due to mental or physical disability. (A medical and/or psychological examination may be required to determine the employee's fitness for duty, and in such instance the Civil Service Commission shall approve the physician/psychologist to make such examination.)
- (c) Incompetency or inefficiency
- (d) Insubordination
- (e) Intoxication
- (f) Neglect of duty
- (g) Negligence or willful damage to, or misuse of, public property or waste of supplies or equipment
- (h) Violation of any lawful or reasonable regulation or order made and given by a supervisory deputy
- (i) Fraud in securing appointment
- (j) Dishonesty
- (k) Use of or addiction to narcotics or habit-forming drugs or illegal drugs
- (l) Conviction of a misdemeanor or a felony
- (m) Physical or verbal abuse of a person in custody of the Department
- (n) Failure to meet requirements for licensure by the Texas Commission on Law Enforcement Officer Standards and Education
- (o) Failure to achieve and maintain weapons proficiency as required by State Law and Departmental Policy

12.02 **IMPROPER CONDUCT DEFINED** :(continued)

(p) Willful violation of any of the rules set forth in the **Departmental Manual** or any special or general order.

(q) Violation of, or willful disregard of, any lawful regulation or order made and given by a Department Supervisor.

12.03 **EMPLOYEE RIGHT OF JUST CAUSE AND NOTICE** :

(a) No employee shall be subject to any disciplinary action except for just cause.

(b) The cause for disciplinary action shall be in writing and shall particularly state the reason or reasons for which the Sheriff feels that disciplinary action is necessary.

1. Every employee receiving disciplinary action shall have presented to him a copy of just cause.

2. At the completion of the disciplinary action process, a copy of all reports and investigations shall become a part of the employee's personnel file.

3. One copy of the disciplinary action shall be placed in the employee's file maintained in Human Resources. That file shall be open to inspection, upon a written request from the employee who is the subject of the file, for sufficient reason as determined by the director of Human Resources.

12.04 **EMPLOYEE RIGHT OF APPEAL OF DISCIPLINARY ACTION** :

(a) Every employee receiving disciplinary action has the right to appeal that decision and may do so, by letter, within ten (10) days, to the Sheriff. This notice must particularly state the reason for appeal.

(b) Upon receipt of that written notice of appeal, the Sheriff (or designee to whom the employee does not object) has thirty (30) days to conduct any further investigation or hold any hearing relative to the appeal and to make a decision which shall be provided in writing to the employee.

(c) The employee may appear personally, produce evidence, call witnesses, or have counsel when a hearing before the Sheriff is held.

(d) The Sheriff may modify his original decision if he finds that the charges are not supported by the facts.

(e) Upon receipt of written notice of the Sheriff's final decision, the employee has ten (10) days to file a written notice of appeal to the Civil Service Commission.

(f) Upon written notice of an appeal, the Civil Service Commission shall, within fifteen (15) business days, set a hearing of the appeal at the earliest available date, except that continuances may be granted for good cause shown.

(g) The Civil Service Commission has the power to subpoena witnesses and to conduct such investigations as it deems necessary.

(h) The Civil Service Commission shall render a final decision in writing to the employee and the Sheriff within seven (7) days after the end of the hearing.

12.04 **EMPLOYEE RIGHT OF APPEAL OF DISCIPLINARY ACTION** : (continued)

(i) The Civil Service Commission may:

1. In rendering a final decision regarding a disciplinary action by the department, the Commission may only sustain, overturn, or reduce the disciplinary action. The Commission may not enhance a disciplinary action by the department; or

2. Grant the relief requested by the appeal and reinstate the employee.

Reinstatement may include but not limited to placement in the job assignment held by the employee at the time of the disciplinary action, no loss of benefits or with payment of all back wages and salary.

12.05 **EXCEPTIONS TO THIS RULE** :

(a) Actions that do not result in loss of monetary benefits or direct compensation shall not be subject to this procedure.

(b) Employees may not use this rule to appeal notice of failure to complete probation, except as provided by Rule 8.

(c) Employees may not use this rule to appeal administrative dismissals pertaining to FMLA and leave of absence policies that are in compliance with Harris County Personnel Regulations.

Amended 2/94, Amended 4/01, Amended 9/09, Amended 2/10