MONTGOMERY COUNTY
CIVIL SERVICE
REGULATIONS

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Table of Contents

Revision History. i

Table of Contents. ii

CHAPTER I - ORGANIZATION. 1
PURPOSE. 1
1.00 Creation. 1
CREATION AUTHORITY. 1
1.01 Role. 1
1.02 Appointments. 1
1.03 Term of Office. 1
1.04 Responsibilities. 1
1.05 Meetings. 1
1.06 Quorum. 1
1.07 Rules of Order. 1
1.08 Minutes. 2
1.09 Communications. 2
1.10 Attendance. 2
HUMAN RESOURCES DIRECTOR AND CIVIL SERVICE. 2
1.11 Appointment. 2
1.12 Duties. 2
APPLICABILITY. 2
1.13 Covered Full-time Employees. 2
1.14 Personnel Records. 2
1.15 Employment Record. 2
RULES AND REGULATIONS. 3
1.16 Establishment. 3
1.17 Amendment of the Rules. 3
1.18 Montgomery County Employee Policy Manual. 3
BUSINESS DAYS. 3
1.19 Definition. 3
DAY. 3
1.20 Definition. 3
SERVICE. 3
1.21 Definition. 3

CHAPTER II - EMPLOYMENT. 4
POSITION CLASSIFICATION. 4
2.00 Position Designation Relative to Civil Service. 4
EMPLOYMENT PROCEDURES FOR EMPLOYEES COVERED BY CIVIL SERVICE. 4
2.01 Job Postings. 4
2.02 Applications. 4
2.03 Testing. 4
2.04 Educational Attainment. 4
EMPLOYMENT PROCEDURES FOR LAW ENFORCEMENT POSITIONS. 4
2.05 Recruitment. 4
2.06 Age. 4
SELECTION. 4
2.07 Hiring Decisions. 4
2.08 Drug Screens. 4
2.09 Physical Agility Tests. 4
2.10 Equal Employment Opportunity. 5
DISQUALIFICATION OF APPLICANTS AND EMPLOYEES. 5
2.11 Reasons for Disqualification. 5

PROBATIONARY PERIOD FOR EMPLOYEES HIRED TO FILL COVERED FULL-TIME POSITIONS. . . . 5
2.12 Six-month Probationary Period. . . . 5
EMPLOYMENT STATUS.. . . . 6
2.13 Classification As A Covered Employee. . . . 6
NEPOTISM. . . . 6
2.14 State Law. . . . 6
2.15 Appointment of Employees. . . . 6
2.16 Affinity.. . . . 6
2.17 Termination of Marriage.. . . . 6
CHAIN OF SUPERVISION. . . . 6
2.18 Changes in Chain of Supervision. . . . 6
REASSIGNMENT. . . . 6
2.19 Reassignments Not Grievable.. . . . 6
PROMOTIONS.. . . . 6
2.20 Definition. . . . 6
2.21 Eligibility / Testing / Selection. . . . 7
2.22 Salary. . . . 7
DEMOTIONS. . . . 7
2.23 Definition. . . . 7
2.24 Acceptable Reasons. . . . 7
2.25 Salary. . . . 7
EVALUATION PERIOD. . . . 7
2.26 On Promotion, Demotion, Voluntary Reassignment or Voluntary Transfer . . . 7
REINSTATEMENT.. . . . 7
2.27 Definition. . . . 7
2.28 Benefit and Salary Restoration for Reinstated Employees. . . . 8
2.29 Waiver of Probationary Period for Reinstated Employees. . . . 8
REDUCTION IN FORCE. . . . 8
2.30 Reduction in Force.. . . . 8
2.31 Voluntary Termination. . . . 9
2.32 Candidates for Public Office. . . . 9
REHIRE. . . . 9
2.33 Former Employees.. . . . 9
RESIGNATION. . . . 9
2.34 Written Resignation Required. . . . 9

CHAPTER III - PROGRESSIVE DISCIPLINE/TERMINATION.. . . . 10
GENERAL PROVISIONS. . . . 10
3.00 Purpose. . . . 10
3.01 Suspensions, Demotions, Discharges.. . . . 10
3.02 Calls for Suspension, Demotion, or Discharge. . . . 10
TYPES OF DISCIPLINARY ACTION. . . . 11
3.03 Verbal Reprimand, First and Second Level Discipline. . . . 11
3.04 Third Level Discipline.. . . . 11
3.05 Notification of Disciplinary Action.. . . . 12

CHAPTER IV - APPEAL OF DISCIPLINARY ACTION.. . . . 13
ELIGIBILITY TO FILE A GRIEVANCE AFTER SUSPENSION, DEMOTION, OR DISCHARGE. . . . 13
4.00 Covered Full-time Employees. . . . 13
TIME LIMITS OF THE GRIEVANCE PROCEDURE.. . . . 13
4.01 Time Limits Enforced.. . . . 13
GRIEVANCE PROCEDURE. . . . 13
4.02 Grievances to the Civil Service Commission.. . . . 13

CONDUCT OF CIVIL SERVICE HEARING. 17
4.03 General Policies.. 17
INVESTIGATION. 17
4.04 Attendance and Production of Documents May Be Compelled. 17
INSPECTION. 17
4.05 Grievant's Right to Inspect and Interview. 17
AMENDMENT OF CHARGES. 18
4.06 Hiring Authority's Right of Amendment. 18
FINDING AND DECISION. 18
4.07 Decision of the Civil Service Commission. 18
RECORD FILED. 18
4.08 Public Record.. 18

Attachment A. 19

Attachment A-1. 23

Attachment B. 24

Attachment C. 25

Attachment D. 27

Attachment E. 29

Attachment F. 30

Attachment G. 31

Attachment H. 32

Attachment I. 33

CHAPTER I - ORGANIZATION

PURPOSE

1.00 Creation: The Civil Service System of Montgomery County has been created under the authority of Chapter 158 of the Local Government Code. Its purpose is to establish and enforce rules in accordance with Section 158.009 of said chapter. These rules may be amended at any time, and copies of these orders and amendments shall be maintained in the offices of the County Human Resources Director.

CREATION AUTHORITY

1.01 Role: The Commissioners Court is the legal authorized elected body that provides oversight for the operation of Montgomery County government. By order of this body, on September 22, 2003, the Montgomery County Civil Service Commission was created.

1.02 Appointments: The Commissioners Court appoints the three members of the Civil Service Commission, designating one member to serve as Chairman.

1.03 Term of Office: Each member of the Commission holds office for a term of two years and until his/her successor is appointed. Vacancies on the Commission must be filled by appointment of the Commissioners Court for the unexpired term of the member whose position has been vacated.

1.04 Responsibilities: The Commission has the responsibility to make, publish and enforce rules relating to:

A. the definition of county employees;

B. selection and classification of county employees;

C. competitive examination;

D. promotions, seniority, and tenure;

E. layoffs and dismissals;

F. disciplinary actions;

G. grievance procedures; and

H. other matters relating to the selection of county employees and the procedural and substantive rights, advancement, benefits, and working conditions of county employees.

1.05 Meetings: A regular meeting of the Civil Service Commission is scheduled for the second Friday of January and on the second Friday in the first month of the second, third and fourth calendar quarters of each year; provided, however special meetings may be called by the Chairman or by the other two Commission members upon giving reasonable (five day) notice to all Commission members; and, provided further, that the meetings in the second, third and/or fourth calendar quarters can be canceled by the Human Resources Director acting as the Civil Services Director should there be no business to which the Commission must attend. The meetings of the Commission are open to the public and posted in accordance with the Open Meetings Laws of the State of Texas.

1.06 Quorum: Two members of the Commission constitute a quorum for administrative matters, however all Commissioners must be present at grievance hearings.

1.07 Rules of Order: The Montgomery County Civil Service proceedings shall be conducted in accordance with "Roberts Rules of Order". The normal order of business is:

A. approval of minutes of the previous meeting;

B. communications and correspondence;

C. discussion of reports;

D. unfinished business; and

E. new business.

A Commission member may record in the minutes his/her approval of or objection to any act of the Commission together with his/her reasons.

1.08 Minutes: The Secretary of the Commission shall be responsible for recording the minutes of each meeting and shall note the following:

A. the time and place of each meeting of the Commission;

B. the names of the Commission members present;

C. all official actions of the Commission;

D. the official vote by each Commission member except where the action is unanimous;

E. upon request, a Commission member's dissent with his/her reasons.

The minutes are presented for approval at the next regular meeting of the Commission. The minutes, upon approval by the Commission, are open for public inspection.

1.09 Communications: All communications or requests to the Civil Service Commission are to be made in writing and sent to the Human Resources Director. A summary of the request, and the resultant action of the Commission will be made in the official minutes of the Commission.

1.10 Attendance: If a Civil Service Commission member is absent from three meetings during his/her present term without the approval of the remaining members, then the absent member is automatically deemed to have submitted his or her resignation, and the position will be declared vacant. The request will be made by the Commission to the Commissioners Court for a replacement of such member.

HUMAN RESOURCES DIRECTOR AND CIVIL SERVICE

1.11 Appointment: The Human Resources Director is appointed by the Commissioners Court. As an additional duty, the Human Resources Director is also appointed by Commissioners Court to serve as Civil Service Director and by the Civil Service Commissioners to serve as Secretary for the Civil Service Commission.

1.12 Duties: The Human Resources Director will provide staff support to the Civil Service Commission as may be necessary to record and maintain the minutes of the Commission. Also, if approved by the Civil Service Commission, the Human Resources Director will be the Chief Examiner for the Civil Service Commission and will provide staff support for the day to day functions of said commission.

APPLICABILITY

1.13 Covered Full-time Employees: The Civil Service Rules apply to all “regular” full time employees (those working 30 or more hours per week) who have completed their six-month probationary period. Those employees not covered by Montgomery County Civil Service Regulations are those that are employed in positions classified as “part-time” (less than 30 hours per week), “temporary,” or “seasonal,” and those which are specifically excluded from coverage in Attachment A of this document.

1.14 Personnel Records: The Human Resources Director shall maintain an official roster containing the name, job title, class code, position number, salary, ethnicity, hire date, and department of all employees holding positions in the Civil Service of Montgomery County.

1.15 Employment Record: The Human Resources Director shall also maintain in the Human Resources Department a complete employment record of all employees covered by these Regulations. This record will include all personnel actions, personal employment data, and documentation of education beyond high school, including transcripts, certifications, etc., especially when required for the position.

RULES AND REGULATIONS

1.16 Establishment: The Rules of the Commission that are currently in effect are contained in subsequent sections of this manual. These rules have been approved by the Montgomery County Civil Service Commission and are in effect until amended, revised, or eliminated by the Commission.

1.17 Amendment of the Rules: Amendment to the rules may be made at any meeting of the Civil Service Commission. All rules and amendments shall become effective on the date of their approval by the Commission. All rules and amendments shall be printed for distribution to all departments that have Civil Service employees.

1.18 Montgomery County Employee Policy Manual: In addition to these Rules, the policies of Montgomery County as defined in the Montgomery County Employee Policy Manual, approved by the Montgomery County Commissioners Court on June 21, 2004 and amended as deemed appropriate by the same body, are adopted under Montgomery County Civil Service.

BUSINESS DAYS

1.19 Definition: As used throughout these regulations, “business days” shall mean Monday through Friday excluding holidays officially recognized by Montgomery County.

DAY

1.20 Definition: When used in the context of a suspension from employment, a "day" is eight work hours even though the particular suspended employee normally works more than or less than eight hours during the period beginning at midnight and ending twenty-four consecutive hours later.

SERVICE

1.21 Definition: Service by mail shall be complete upon deposit of the material being served, enclosed in a postpaid, properly addressed envelope, in a post office or official depositary under the care of the Untied States Postal Service. Service by overnight delivery shall be complete upon delivery of the material being served to the company selected to make the delivery. Service by e-mail or by fax shall be complete at the time the transmission of the material being served is concluded.

CHAPTER II - EMPLOYMENT

POSITION CLASSIFICATION

2.00 Position Designation Relative to Civil Service: Each Montgomery County position will be classified as "included" or "excluded" from Civil Service coverage. Persons in positions which are excluded from Civil Service do not have the right to grieve actions which result in suspension, demotion, or discharge, the only actions grievable under the Montgomery County Civil Service Regulations.

EMPLOYMENT PROCEDURES FOR EMPLOYEES COVERED BY CIVIL SERVICE

2.01 Job Postings: Vacant positions will be posted in compliance with Section 2.2 (Recruitment, Selection, Promotion, Demotion) of the Montgomery County Employee Policy Manual.

2.02 Applications: Applications will be handled in compliance with Section 2.2 (Recruitment, Selection, Promotion, Demotion) of the Montgomery County Employee Policy Manual. Completed applications are kept on file in the Human Resources Department for two years.

2.03 Testing: Applicants for clerical positions must complete a typing test and clerical skills test with results that meet or exceed the minimum requirements for the job, if any. Typing and all other clerical skills tests are administered by the County Human Resources Department. Applicants may take clerical skills tests once each day they are offered by the County Human Resources Department.

2.04 Educational Attainment: All applicants selected for positions which require education above the high school level will be required to provide copies of official transcripts or other acceptable official documentation from the colleges or universities they attended. Persons hired to fill positions that require special training, licensing, or certification must also provide satisfactory evidence of completion of the stated requirements. (See Montgomery County Employee Policy Manual, Section 2.2-5.)

EMPLOYMENT PROCEDURES FOR LAW ENFORCEMENT POSITIONS

In addition to being covered by Sections 2.01 through 2.04, Sections 2.05 and 2.06 will apply for law enforcement positions:

2.05 Recruitment: The hiring authority (Sheriff, County Attorney, District Attorney, Constable, or Fire Marshal) shall recruit and hire persons for positions requiring law enforcement certification. A list of vacant positions should be posted in the Human Resources Department.

2.06 Age: The age criteria prescribed by the "Texas Commission on Law Enforcement Officer Standards and Education Act" will be enforced.

SELECTION

2.07 Hiring Decisions: Employees will be selected by the elected official, department head, or his or her designee based on qualifications. Hiring decisions will not be made based on race, color, religion, national origin, age, military status, disability, or sex, except where sex is a bona fide occupational qualification.

2.08 Drug Screens: After an offer of employment has been made to an applicant but before he/she may be hired and begin working, he/she must appear at the office of Montgomery County's approved vendor for drug screens, the Human Resources Department must be notified that the applicant has received a negative result on the drug screen, and Human Resources must notify the hiring authority. Those leaving the employment of the county and returning after a period of six months or longer must submit to another drug screen and receive a negative result.

2.09 Physical Agility Tests: For those being hired in positions that require above average physical abilities, after an offer of employment has been made but before an applicant may be hired and begin working, the applicant must successfully complete a job-related physical agility test. Those leaving the employment of the county and returning after a period of six months or longer to a position that requires above average physical abilities must successfully complete a job-related physical agility test.

2.10 Equal Employment Opportunity: It is the County's policy to provide equal employment opportunities to all applicants and employees as specified in Section 2.0 (Equal Employment/Affirmative Action) of the Montgomery County Employee Policy Manual.

DISQUALIFICATION OF APPLICANTS AND EMPLOYEES

2.11 Reasons for Disqualification: Any falsification or misrepresentation of facts or failure to report pertinent data on the application form shall be cause for disqualification or just cause for dismissal. An applicant or employee may also be disqualified from employment and/or advancement consideration for the reasons stated in the Montgomery County Employee Policy Manual, Section 2.2-7 or if he/she:

A. Has been convicted of a felony or a criminal offense involving moral turpitude which would call into question his/her ability to do his job without harm or loss to others during the performance of his/her job. The word “convicted” shall be construed to mean a conviction by a verdict, by plea of guilty, or nolo contendere upon a judgment of the court, a jury having been waived, without regard to subsequent disposition of the case or suspension of sentence, probation, deferred adjudication, pre-trial diversion, or otherwise. The words “moral turpitude” shall be construed to mean any act of baseness, vileness or depravity, or any act done contrary to justice, honesty, modesty, or good morals, or any act done with deception or through corrupt motives; or

B. Has used or attempted to use any personal or political influences to further eligibility or appointment; or

C. Has practiced or attempted to practice any deception or fraud in his/her application or examination, or in securing his eligibility or appointment; or

D. Has been disqualified within the past three years from the same or any other county examination or removed from a position under circumstances which in the opinion of the Commissioners Court render him/her equally unfit for the position for which he/she applies; or

E. Has been unable to be contacted after a reasonable amount of effort (as may be determined by the hiring authority), or has failed to appear for an interview or has declined an interview or job offer; or

F. Has indicated through clear actions or words an inability to attend work on a regular basis; or

G. Information garnered through reference checks discloses a valid basis for rejection.

PROBATIONARY PERIOD FOR EMPLOYEES HIRED TO FILL COVERED FULL-TIME POSITIONS

2.12 Six-month Probationary Period: Except as hereinafter stated in this section, each individual who is hired or rehired by Montgomery County in a regular (as opposed to temporary) full-time position not excluded from Civil Service serves a six month probationary period. The probationary period does not include time served as:

A. A part-time, temporary, or seasonal employee; or

B. Periods of unpaid absence of five days or longer during the probationary period, in which case the probationary period would be extended by the same number of days.

During the probationary period, the employee serves at the discretion of the hiring authority and may be separated "at will" from employment at any time prior to completion of such probationary period. For employees who are dismissed during the probationary period, no cause need be cited and no access to the grievance procedure is allowed.

An individual who has served a six month probationary period in a regular full-time position not excluded from Civil Service and who, without an intervening separation from employment, transfers directly to another regular full-time position not excluded from Civil Service, whether in the same or in a different department, does not serve a probationary period in the new position. An individual who transfers from a

position excluded from Civil Service to a regular full-time position not excluded from Civil Service in a different department serves a six month probationary period in the new position. An individual who has been employed in a department for at least six months who transfers from a position excluded from Civil Service to a regular full-time position not excluded from Civil Service in the same department does not serve a probationary period in the new position. An individual who has served a six month probation period and who is rehired by Montgomery County in a regular full-time position not excluded from Civil Service within ninety (90) days of the individual's separation from employment does not serve a six month probationary period if the individual is rehired in the same department. Any statement in this section notwithstanding, all promoted employees remain subject to the evaluation period stated in Section 2.26.

EMPLOYMENT STATUS

2.13 Classification As A Covered Employee: Upon completing his/her probationary period in accordance with the provisions of paragraph 2.12, an employee will be classified as "covered full-time" unless otherwise specified as being excluded from Civil Service at the time of hiring, transfer, or promotion.

NEPOTISM

2.14 State Law: A county employee shall not be hired in a manner that would violate state laws against nepotism or any local rules that have been passed prohibiting nepotism. Elected officials/department heads or their appointees are prohibited from evading nepotism rules by trading favors in appointing relatives for each other. Such trading is prohibited by State Law and constitutes grounds for immediate removal from their office or position.

2.15 Appointment of Employees: Elected officials/department heads or other County officials may not appoint or supervise (directly or indirectly) any person related to them within the second degree by affinity (marriage) or within the third degree by consanguinity (blood).

2.16 Affinity: Employees who are married either legally or through common law may continue employment as long as it does not result in any of the above situations. If the conditions prohibited in the other paragraphs of this policy should occur, the employees affected will be given 60 days to seek other employment with the County. At the conclusion of 60 days, the employees will be given the option to determine which of them will resign.

2.17 Termination of Marriage: Termination of a marriage by divorce or the death of a spouse terminates relationships by affinity created by that marriage, unless a child of that marriage is living, in which case the marriage is treated as continuing to exist; as long as a child of that marriage lives.

CHAIN OF SUPERVISION

2.18 Changes in Chain of Supervision: Any personnel action that changes the established chain of supervision in any department with positions falling under these Regulations, or which affects position/job class management, must be submitted to the Human Resources Director.

REASSIGNMENT

2.19 Reassignments Not Grievable: The involuntary reassignment of an employee to a position in the same salary grade and at the same salary within the department is not grievable. The employee should be given advance notice in writing of the reassignment, along with the reasons for it.

PROMOTIONS

2.20 Definition: A promotion is movement to a position with a higher salary grade (i.e., a higher salary range and rank) which requires greater skill and responsibility. It is the County's policy to give qualified employees advancement opportunities whenever possible. Therefore, most job vacancies will be posted in compliance with Section 2.2 (Recruitment, Selection, Promotion, Demotion) of the Montgomery County Employee Policy Manual unless a qualified individual from within the same department is identified and promoted. In all cases, promoted individuals must meet or exceed the basic qualifications for the position as stated in the completed Position Description Questionnaire. Interviews are scheduled at the discretion of the department.

2.21 Eligibility / Testing / Selection: Any employee wishing to be promoted to a position requiring a specific level of education, degree, license, and/or certification must produce documentation verifying that he/she possesses that which is required. An employee applying for a position that requires specific physical abilities must successfully complete a job-related physical agility test prior to being promoted. Failure to produce the required documentation or pass the physical agility test will be grounds for disqualification. Applicants may be required to pass job skills tests to qualify for positions in which particular job skills are needed. The elected official/department head may develop job skills tests for his department. The elected official/department head will consider work experience, education, job performance, work habits, disciplinary issues, personal traits, adaptability, skills, test results, if any, and abilities in selecting individuals for promotion. The elected official/department head has the right to select outside applicants for specialized units or positions should the applicant have a unique, specialized skill set most suitable to the position sought. The final decision for any promotion or selection will be made at the discretion of the elected official/department head or his designee.

2.22 Salary: An employee who is promoted will be placed in the appropriate new salary grade as specified in the county salary schedule and approved by Commissioners Court.

DEMOTIONS

2.23 Definition: A demotion is the movement of an employee from his/her present position to one with a lower pay grade and/or salary level.

2.24 Acceptable Reasons: Acceptable reasons for demotion are specified in the Montgomery County Employee Policy Manual, Section 2.2-9.

2.25 Salary: An employee who is demoted will be placed in the appropriate new salary grade as specified in the county salary schedule and approved by Commissioners Court. His/her salary may be reduced and/or if it is above the maximum for the salary grade it may not be increased until such time as the maximum for the salary grade is increased.

EVALUATION PERIOD

2.26 On Promotion, Demotion, Voluntary Reassignment or Voluntary Transfer: Promoted, demoted, voluntarily reassigned and voluntarily transferred employees are subject to an evaluation period during which they must demonstrate the ability to successfully perform the new job. An employee who, in the supervisor's opinion, does not perform satisfactorily may request demotion, reassignment or transfer to the previous grade, classification, and salary if such opening is available. In all such cases, the receiving department head must approve the transfer by submitting a completed payroll change request form to the Human Resources Department. If such transfer is not available dismissal may result. However, the lack of performance or inability to perform must be identified and documented following the guidelines of Chapter III of these Regulations.

A. Intradepartmental - Employees promoted, demoted, voluntarily reassigned and voluntarily transferred within the same department will be subject to a 30 calendar day evaluation period unless the department has a formal training program that exceeds 30 days, in which case the evaluation period shall end when the formal training period ends. In no case shall the evaluation period exceed 14 weeks except in the Sheriff's Department where the training period may last up to six months. Employees in the Sheriff's Department who do not successfully complete the training period may be demoted but not discharged as a result of the evaluation.

B. Interdepartmental - Employees promoted, demoted, voluntarily reassigned and voluntarily transferred from one department to another will be subject to a 60 calendar day evaluation period unless the department has a formal training program that exceeds 60 days, in which case the evaluation period shall end when the formal training period ends. In no case shall the evaluation period exceed 14 weeks except in the Sheriff's Department where the training period may last up to six months. Employees in the Sheriff's Department who do not successfully complete the training period may be demoted but not discharged as a result of the evaluation.

REINSTATEMENT

2.27 Definition: Reinstatement is:

(1) the re-employment of a full-time, regular employee who was terminated by an elected official or department head,

or,

(2) the recision of the demotion of a full-time, regular employee (see definition of "demotion", page 8) who was demoted by an elected official or department head,

by order of the Civil Service Commission or of a district court as the result of a grievance filed by the employee with the Civil Service Commission.

2.28 Benefit and Salary Restoration for Reinstated Employees: A reinstated employee is eligible for the restoration of benefits to the extent he/she has not previously received compensation for the benefits and salary; provided, however, that the salary of an employee who is re-employed under 2.27(1) but whose re-employment is to a position with a salary grade lower than that from which he/she was discharged will be adjusted so that it does not exceed the maximum of the salary grade range for the position in which he/she is re-employed; and, provided further, that any back pay awarded a reinstated employee by the Commission will be paid at the salary grade for the position from which the reinstated employee was discharged or demoted and will be in an amount equal to all or any part of the pay, allowances, or differentials, as applicable, which the employee normally would have earned or received during the period if the personnel action had not occurred.

2.29 Waiver of Probationary Period for Reinstated Employees: Reinstated employees are not subject to a probationary period.

REDUCTION IN FORCE

2.30 Reduction in Force: A reduction in force is a reduction in personnel, reduction in time or reduction in compensation that comes about due to the reorganization or elimination of an office or department so as to effect an economy in governmental operations or to secure more efficient performance of one or more functions of government, or that is due to a decline in the County's financial resources brought about by a decline in tax revenues, cuts in funding, or any other actions or events which create a need to reduce financial expenditures for personnel.

In implementing a reduction in force, the hiring authority may consider, in deciding the employees to be terminated or demoted, the employees who will have their time reduced, or the employees who will have their compensation reduced, the comparative:

A. length of service in the affected position;

B. compensation;

C. job skills;

D. credentials; and,

E. past performance (as evidenced by timely performance evaluations on Montgomery County's prescribed form and by timely documented disciplinary actions)

of the employees in each job classification in the department and no other factors; provided, however, that the length of service of the employees in the position must be the primary factor considered by the hiring authority, with the other factors being given weight only if they are objectively significant in their bearing. If the hiring authority relies solely upon length of service in implementing a reduction in force, a termination or demotion due to the reduction in force shall not be grievable.

The hiring authority shall rank, on a separate written list for each job classification, the employees to be affected in each job classification, from first to last, in the order in which the employees are to be affected, and shall implement the reduction in force in that order. The hiring authority shall provide each employee so affected evidence in the form of a written explanation or preexisting documents demonstrating the considerations undertaken by the hiring authority in ranking the employee, but shall redact the names and employee numbers from documents pertaining to other employees that the hiring authority used for comparative purposes. An affected employee shall be demoted to an intra-department position in the job

classification immediately below the classification of the position held by the affected employee, even if the effect of the demotion is to require the removal of another employee from that position. An employee removed from a position because of the demotion of an employee in a higher job classification shall, likewise, be demoted to an intra-department position in the job classification immediately below the classification of the position held by the removed employee unless there are no lower job classifications in the department, in which case the removed employee shall be terminated.

When a reduction in force occurs, an affected employee may also be considered for a demotion in lieu of a termination under the circumstances described in Montgomery County Employee Policy Manual section 2.2-9 C.

2.31 Voluntary Termination: Any regular, non-probationary employee who resigns from county employment or is demoted in lieu of layoff may request the Human Resources Director to forward a copy of his/her employment application to county departments having vacant positions for which he/she appears qualified.

2.32 Candidates for Public Office: Any regular employee who resigns from county service to become a candidate for or accept the nomination for a public office is eligible for reinstatement. Eligibility however, will be contingent upon acceptance of the applicant into a vacant position by a hiring authority. In such reinstatements, the applicant is not required to go through the probationary period.

REHIRE

2.33 Former Employees: Individuals who are rehired are treated the same as other applicants except as described in 2.12, in this section, and in the Montgomery County Employee Policy Manual and resolutions of the Montgomery County Commissioners Court.

For one year after any reduction in force, all regular, full-time, non-probationary employees who were terminated or demoted as a result of the reduction in force shall be given the opportunity to fill vacancies in the department of the same hiring authority equal or similar to the positions from which they were terminated or demoted, and for which they are qualified, before any other candidates applying for the same or similar position can be hired. When more than one person qualifies for rehire under this section, the preference shall be given to the person terminated or demoted last according to the ranked lists created by the hiring authority at the time of the reduction in force. An employee terminated or demoted as a result of a reduction in force who refuses to fill such a vacancy shall no longer be given any preference.

RESIGNATION

2.34 Written Resignation Required: An employee who desires to leave the County in good standing must file with the hiring authority a written resignation giving at least two weeks notice of his/her intention to leave, unless for good cause, and the hiring authority consents to the employee leaving sooner. Written resignations must be filed with the Human Resources Department. Employees who leave without filing a written resignation and/or giving the appropriate notice will have that fact entered in their employment record.

CHAPTER III - PROGRESSIVE DISCIPLINE/TERMINATION

GENERAL PROVISIONS

3.00 Purpose: The purpose of this chapter is to insure that discipline administered to Montgomery County employees is objective with regard to identifying punishable infractions; equitable for the same cause(s) throughout all county departments; and fair from the standpoint of impact on the employee's career with the county. When necessary, discipline should be administered as an incentive to correct unsatisfactory work behavior. Specifically, it is prohibited for anyone to use management tools and/or disciplinary measures to exploit employees of the county for political or other personal reasons. For example, employees are not to be discriminated against or given preference on their performance report for failing to contribute to or participate in political campaigns.

3.01 Suspensions, Demotions, Discharges: Except for discharges during the probationary period as provided in Section 2.12, all suspensions, demotions and discharges of persons in positions covered by these Civil Service Regulations will be made in compliance with and under the provisions of this Chapter III.

3.02 Calls for Suspension, Demotion, or Discharge: Employment shall be dependent upon adequate job performance and good behavior. Any employee may be suspended, demoted, reassigned, or discharged for any of the following reasons:

A. incompetency, inefficiency, failing to meet the written standards of job performance;

B. negligence in the performance of duties;

C. insubordination;

D. dishonesty;

E. intemperance;

F. violating the rules and regulations of the Civil Service Commission, Commissioners Court (as stated in the Montgomery County Employee Policy Manual), or the hiring authority;

G. a permanent or chronic physical or mental disability which renders the employee incapable of performing the essential functions of his/her position on a consistent basis with or without a reasonable accommodation;

H. being convicted of a felony committed in the furtherance of, or while participating in, a civil disorder;

I. endangering the health or safety of any employee, member of the general public, or himself/herself;

J. just cause, as determined by the merits of each individual case and upheld by the Civil Service Commission;

K. failing to submit requested documentation to the Human Resources Director concerning a medical condition of the employee which may present a contradiction to continued employment;

L. a threat or threats by an employee to do violence to him/herself or to another;

M. is not or is no longer legally permitted to hold his/her position.

Unless the requirements of Subchapter E of Chapter 614 of the Texas Government Code are first met, a peace officer may not be suspended, discharged, or subjected to any other form of discipline or to any form of employment discrimination by the organization employing or appointing the peace officer because the peace officer refuses to submit to a polygraph examination as part of an internal investigation regarding the conduct of the peace officer.

TYPES OF DISCIPLINARY ACTION

3.03 Verbal Reprimand, First and Second Level Discipline: Prior to a suspension, demotion, or termination, the hiring authority, depending on the severity of the employee's actions, may use lesser forms of disciplinary action. However, nothing in this paragraph shall prohibit the hiring authority from proceeding to the third level of discipline (which includes suspension, demotion, or termination), if the employee commits a major offense that warrants such discipline. In all levels of discipline, the hiring authority may designate responsible individuals to administer disciplinary actions. In such instances, the designee is acting on behalf of and in the name of the hiring authority. The lesser forms of action that may be taken against the employee include:

A. Verbal Reprimand: This is the least severe form of disciplinary action and is designed to advise the employee of the problem which has resulted in unsatisfactory behavior or performance. This level of discipline should be documented on form HR-9, Documentation of Verbal Counseling Session, and be signed by the supervisor. Documentation should be distributed to the employee, the Human Resources Department, and the immediate supervisor. This level of discipline is not subject to the grievance process.

B. First Level Discipline: This is the first formal step in progressive discipline. This level deals with continuation of minor offenses, when two or more previous verbal reprimands do not result in the correction of the problem by the employee. This level of discipline should be documented on form HR-10, First Level Discipline, be signed by the supervisor and employee, and should also allow for the employee to respond. Documentation should be distributed to the employee, the Human Resources Department, and the immediate supervisor. This level of discipline is not subject to the grievance process.

C. Second Level Discipline: This level of discipline deals with serious offenses or continuation of minor offenses that were not corrected in the first level of discipline. The second level of discipline may be used without using the first level discipline when the offense is serious enough to warrant such action. The selection of this level over the first level is a management decision which should be documented on form HR-11, Second Level Discipline, be signed by the supervisor and employee and should also allow for the employee to respond in writing. Documentation should be distributed to: the employee, the supervisor, and the Human Resources Department. This level of discipline may include suspension without pay for not longer than three days and is not subject to the grievance process.

3.04 Third Level Discipline: The third level of discipline deals with major offenses or a continuation of minor offenses which were not corrected in the first or second levels of progressive discipline. This level may be used without the use of the first or second levels when the severity of the offense makes this level of discipline appropriate. **All cases of third level discipline must be recorded on form HR-12, Third Level Discipline, and must be properly documented so that the employee understands the severity of the action and is given the opportunity to respond in writing to the department head before formal action is taken by the department.** In cases such as theft or driving on duty while intoxicated, where the offense itself constitutes a breach of safety or fiscal security that must be corrected immediately, the employee may be suspended from active duty. Given absolution from the offense, whereby the Civil Service Commission finds the disciplinary action unwarranted, the department must reinstate and pay the individual for work time lost as a result of the suspension. However, if the department’s decision is upheld by the Civil Service Commission, the individual's dismissal will become effective with the department's suspension order. Discipline that may be administered at this level includes:

A. Suspension:

1. With Pay: This is an ordered absence from duty while in full pay status for a prescribed period of time. It allows for immediate response to a suspected but not fully substantiated offense as well as a period of time in which an investigation can be thoroughly pursued.

2. Without Pay: This is an ordered absence from duty without pay for a prescribed period of time longer than three days.

B. Demotion

C. Discharge: Employment with Montgomery County is terminated.

The following information must be included in the completed Documentation of Third Level Discipline:

A. The specific reason for the action.

B. The discipline to be imposed.

C. The effective date.

D. The right of the employee to respond to the elected official's/department head's stated reason for the action before the actual discipline is administered.

E. The right of the employee to file a grievance to be heard by the Civil Service Commission if the discipline is administered.

3.05 Notification of Disciplinary Action (to be used for third level discipline only)

In addition to the completed form HR-12, Documentation of Third Level Discipline, required by section 3.04, a complaint against an employee, whether internal (made by a fellow employee or the employee's superior) or external (made by a person outside the employee's department), is required before disciplinary action against the employee may be initiated and must be in writing and signed by the person making the complaint. A copy of a written, signed complaint against the employee shall be given to the employee within a reasonable time after it is provided to the hiring authority. Disciplinary action generally may not be taken against the employee unless a copy of the written, signed complaint is given to the employee within a reasonable time; provided, however, that the failure to provide a copy of a complaint until after the discipline is imposed does not bar the imposition of discipline, or the ability of the Civil Service Commission to uphold the discipline imposed, unless the failure to provide the complaint has impaired the employee's ability to defend him/herself against the allegation(s) or has otherwise violated his/her due process rights. The employee must be allowed the opportunity to respond to the allegation(s) contained in the HR-12 and complaint.

An employee may not be indefinitely suspended or terminated from employment based on the subject matter of a written, signed complaint unless the complaint is investigated and there is evidence to prove the allegation of misconduct.

Any employee of the County may be suspended, demoted, or discharged by the hiring authority (or his/her/its designee), if the foregoing requirements have been satisfied, by completing form HR-13, Notification of Disciplinary Action, and serving a copy of the completed form upon the employee in person or by mailing the form to the employee's address of record as maintained in the County Human Resources Department.

CHAPTER IV - APPEAL OF DISCIPLINARY ACTION

ELIGIBILITY TO FILE A GRIEVANCE AFTER SUSPENSION, DEMOTION, OR DISCHARGE

4.00 Covered Full-time Employees: Under the "Powers of the Commission," as cited in Section 158.009 of the Texas Local Government Code, and these Regulations, any Civil Service employee of the county who has completed his/her probationary period may file a grievance only in matters of discharge, involuntary demotion, or suspension of more than three (3) days. However, a deputy sheriff whose appointment is revoked by the sheriff by reason of the deputy being indicted for a felony offense may not file a grievance under these Regulations.

TIME LIMITS OF THE GRIEVANCE PROCEDURE

4.01 Time Limits Enforced:

A. No matter shall be entertained as a grievance hereunder unless the county Human Resources Department receives a completed Employee Grievance Form (HR-14) within ten (10) business days after the occurrence of the event or after the employee receives notice of the event giving rise to the grievance.

B. All time limits set forth in this procedure may be extended for good cause by mutual written consent of the aggrieved and either the hiring authority or the Human Resources Director. Without such written agreement, the time limits shall be strictly enforced.

C. If the grieving party or parties fail to pursue the grievance within the time limits set forth, the grievance shall be considered resolved based upon the last answer given by supervisory representatives of the County. The Human Resources Director, acting as the Civil Service Director, shall determine whether the grieving party or parties failed to timely pursue the grievance and, if so, shall notify all parties that the grievance was not timely pursued and is considered resolved.

D. In cases where the elected official or department head fails to meet these time limits, the employee will be entitled to remedy directly with the Civil Service Commission whose decision will be final.

GRIEVANCE PROCEDURE

4.02 Grievances to the Civil Service Commission: Grievances shall be processed in accordance with the following steps:

A. Eligible employees (as defined in 4.00) may appeal to the Civil Service Commission for relief. This appeal must be received by the Human Resources Department within the time limits stated in 4.01.

1. Employees working in departments with a departmental appeal process (e.g., the Sheriff's Department), must complete the appeal process available through that department before proceeding to the Civil Service Commission. Their appeal to the Commission must be received by the county's Human Resources Department within ten (10) business days of their receipt of notice that the elected official or department head has denied their appeal.

2. The Civil Service Director is authorized to summarily deny in writing an attempt to grieve an employment action that is neither a discharge (termination) that is involuntary, a demotion (as defined in Civil Service Regulation 2.23) that is involuntary, or a suspension of more than three days; provided, however, that, in her discretion, the Civil Service Director may submit the attempted grievance to the Commission for consideration at a pre-hearing conference if the circumstances of the employment action involved are, in her opinion, such that a reasonable person could conclude that the employment action was motivated by political, personal or other inappropriate factors.

3. Before filing a grievance, employees terminated or demoted because of a reduction in force are urged, but not required, to confer with the Civil Service Director about the reduction in force and any explanations or documents provided to the employee by the hiring authority.

B. When filing a grievance to be heard by the Civil Service Commission, the employee/grievant must submit the original plus three copies of the following to the Human Resources Department and one copy to the elected official or department head:

1. Completed Employee Grievance Form (Form HR-14)

2. Copies of documents to be presented at the hearing

3. A list of witnesses who will be called to testify

Failure to provide copies to either of the above parties will result in the grievance being null and void.

C. Within five (5) business days of receiving a copy of the employee's completed Employee Grievance Form (Form HR-14) the elected official or department head must submit the original plus three copies of the following to the Human Resources Department and one copy to the employee/grievant:

1. Elected Official/Department Head Response to Employee Grievance Form (Form HR-15)

2. Copies of documents to be presented at the hearing

3. A list of witnesses who will be called to testify.

D. Within seven (7) business days of receiving the employee's notice that he/she wishes to file a grievance, the Civil Service Commissioners will attempt to set a date to hear it. The Civil Service Commissioners shall, at the request of the Civil Service Director, schedule and hold a pre-hearing conference to decide any preliminary issues related to the grievance. Such preliminary issues may include, but are not limited to, second and subsequent requests by the grievant for a continuance and whether, because of a claim by the employee that management tools have been used for political, personal or other inappropriate purposes, a grievance of the particular employment action will be entertained by the Commission even though the action is not a discharge, demotion or suspension of more than three (3) days. The pre-hearing conference shall be held before any two or more of the Commissioners.

E. Defense. It shall be a defense to an employee grievance that the employee's termination or demotion resulted from a bona fide reduction in force. If established, the defense will bar the employee's grievance. To establish the defense, the hiring authority must show:

EITHER

1. A determination by the Montgomery County Commissioners Court to reduce or eliminate funding for personnel in or to reorganize or eliminate the office or department in which the employee serves;

OR

2. A determination by an entity other than Montgomery County Commissioners Court to reduce or eliminate funding, or an action by that entity that has the effect of reducing or eliminating funding, under a contract or grant that provides funding for one or more positions in the office or department in which the employee serves;

AND

3. That the only factors considered by the hiring authority in deciding which employees to terminate or demote were the comparative length of service, compensation, job skills and credentials, and past performance (as evidenced by timely performance evaluations on Montgomery County's prescribed form and by timely documented disciplinary actions) of the employees in the department; and,

4. If applicable, that the employee was not, within 90 days before the termination or demotion, involuntarily transferred into the particular position for which funding is being reduced or eliminated; and,

5. If applicable, that the employee was not, after a determination to reduce or eliminate funding was made, transferred, voluntarily or involuntarily, into the particular position for which funding is being reduced or eliminated.

Procedure. To raise the defense, in lieu of responding to the employee's grievance, but within the time required for its response to the grievance, the hiring authority shall:

1. File with the Civil Service Director a written statement claiming the defense, a copy of any explanation or documents given to the employee when the employee was terminated or demoted, and any other evidence in the form of affidavits (See Attachment I, HR-17 - Form of Affidavit) or documents demonstrating the above-stated elements; and,

2. On the same day the hiring authority files its statement and evidence, serve a true copy of the statement and evidence upon the employee or the employee's designated representative by personal service, mail, e-mail, fax or overnight delivery.

Within five business days after the hiring authority files its statement and evidence with the Civil Service Director, the employee shall:

1. File with the Civil Service Director a written statement contesting the defense and evidence in the form of affidavits (See Attachment I, HR-17 - Form of Affidavit) or documents contesting the above-stated elements; and

2. On the same day the employee files his/her statement and evidence, shall serve a true copy of the statement and evidence upon the hiring authority or the hiring authority's designated representative by personal service, mail, e-mail, fax or overnight delivery.

Reduction in Force Hearing. If the employee timely files a statement and evidence contesting the defense, the Civil Service Commission shall:

1. Schedule a duly noticed reduction in force hearing that must be held before all three Civil Service Commissioners, at which the Commission will consider the statements and evidence claiming and contesting the defense; and,

2. Acting through the Civil Service Director, notify the parties of the date, time and location of the scheduled reduction in force hearing and advise the parties that they or their designated representatives may, in each party's discretion, present oral argument to the Commission at the hearing;

   NOTE: Oral argument is intended to allow each party to convince the Commission of his/her/its position through persuasive verbal communication referencing only the evidence the parties filed in their written submissions. No additional evidence, oral or written, shall be presented to or considered by the Commission. The Commission will allow the parties equal time to present their arguments. The hiring authority will speak first, uninterrupted by the employee, using all or part of its allowed time. The employee will speak second, uninterrupted by the hiring authority. If the hiring authority has not used all of its allowed time, it will be allowed to speak last, uninterrupted by the employee.

3. Convene the hearing, entertain oral argument, if any, pose any questions it has of the parties, and, if necessary in the interest of fairness, recess the hearing to a future date and time certain to allow the parties to gather and present, through an evidentiary hearing or by further written submission, as directed by the Commission, evidence in the form of oral testimony and documents or in the form of affidavits (See Attachment I, HR-17 - Form of Affidavit) or documents, respectively, specifically addressing the Commission's questions; provided, however, that if the Commission directs the parties to participate in an evidentiary hearing, the parties must exchange witness lists and documents no later than five business days before the date on which the hearing is to reconvene; and, provided further, that the Commission may, in its discretion, make its decision on the basis of the parties' written submissions and oral argument, if any, without conducting a second hearing; and,

4. Reconvene the hearing, if necessary to conduct the evidentiary hearing or to consider the parties' further written submissions, and/or deliberate on the defense after hearing the parties' oral arguments, or if there is no oral argument presented, after calling the matter on the meeting agenda;

5. Enter an order granting the defense, an order denying the defense or an order that defense will be considered by the Commission during the course of a hearing on the employee's grievance.

If the employee does not timely file a statement and evidence contesting the defense, the Civil Service Commission shall issue an order granting the defense.

Effect of Order Granting Defense. If the Commission enters an order granting the defense, the order shall be dispositive of the employee's grievance, will state that the employee's grievance is denied and that the termination or demotion is upheld, and will be considered final and appealable under Tex. Local Gov't Code § 158.012.

Effect of Order Denying or Carrying Defense. If the Commission enters an order denying the defense or an order that the defense will be considered by the Commission during the course of a hearing on the employee's grievance:

1. The hiring authority shall file its response to the employee's grievance with the Civil Service Director within five business days of the date on which the Commission orally renders its order; and,

2. The Commission will schedule a hearing on the employee's grievance to be held on a future date; and,

3. The Civil Service Director will notify the parties or their designated representatives of the date, time and location of the employee grievance hearing.

F. Once a date has been set to hear the grievance, the Civil Service Director has the authority to grant the grievant one continuance; any additional requests require the approval of two or more Commissioners.

CONDUCT OF CIVIL SERVICE HEARING

4.03 General Policies: Following are general policies relative to the conduct of the hearing:

A. The hiring authority shall be entitled to appear personally, produce evidence, and have representation. The hiring authority's portion of the hearing shall be presented first.

B. The employee/grievant shall be entitled to appear personally, produce evidence, have representation, and a public hearing.

C. The Commission shall not be bound by any rules of order, evidence, or procedures in its meetings, hearings, or investigations, except such rules as it may itself establish. The Commission is an administrative body and particularly will not be bound by technical rules of evidence.

D. Any party to the hearing may request reasonable security measures be taken prior to the commencement of a hearing.

E. The Commission Chairman shall, on request of the affected employee, the county attorney, or a designee of the employee or county attorney, administer oaths.

INVESTIGATION

4.04 Attendance and Production of Documents May Be Compelled: Pursuant to the authority granted in Section 158.0095 of the Texas Local Government Code, the Commission Chairman shall, on written request of the affected employee, the county attorney, or a designee of the employee or county attorney, made before the 15th day before the date a Commission proceeding will be held, issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material, respectively. The written request shall include the name and, if known, the telephone number of each person to be subpoenaed, a description of the documentary material sought if a subpoena duces tecum is requested, and the address at which each subpoena is to be served.

A subpoena may be served at any place within the State of Texas by any sheriff or constable of the State of Texas, or by any person who is not a party and who is 18 years of age or older and must be served by delivering a copy of the subpoena to the witness or, if the witness is a party to the proceeding and represented by an attorney, to the witness's attorney. Proof of service must be made by filing with the Civil Service Director the witness's signed memorandum attached to the subpoena showing that the witness accepted the subpoena or a statement by the person who made the service stating the date, time and manner of service and the name of the person served.

A response to a subpoena duces tecum is considered to have been made under oath.

INSPECTION

4.05 Grievant's Right to Inspect and Interview: An employee who has appealed to the Civil Service Commission shall have the right to inspect any document in the possession of or under the control of the hiring authority which is relevant to such appeal and which would be admissible in evidence at a hearing on such appeal. The employee shall also have the right to interview other employees having knowledge of the acts or omissions upon which the discharge, suspension, or demotion was based. Interviews of other employees and inspection of documents shall be at times and places reasonable for the employee and the hiring authority.

AMENDMENT OF CHARGES

4.06 Hiring Authority's Right of Amendment: Before the employee's grievance hearing is conducted by the Civil Service Commission, the hiring authority may serve on the employee and file with said Commission or Court an amended statement of charges containing new causes or allegations. The employee shall be afforded a reasonable opportunity to prepare a defense to the new amended charge. New causes or allegations shall be deemed controverted, and any objections to the enhanced charges may be made orally at the hearing. If the final discipline issued by the hiring authority results in a verbal reprimand or first level discipline, the amended charges are not subject to the grievance process.

FINDING AND DECISION

4.07 Decision of the Civil Service Commission: The decision of the Commission may include but is not limited to suspension, demotion, and/or termination. However, the level of discipline, if any, ordered by the Commission may not exceed the level or severity undertaken by the hiring authority and upon which the grievance has been filed. The Commission may enter an order awarding a level of discipline less than that imposed by the hiring authority, including an order that no discipline be imposed. The finding and decision of the Commission shall be final.

RECORD FILED

4.08 Public Record: A copy of the order in writing, a copy of the answer, together with a copy of the finding and decision of the Civil Service Commission, shall be filed as a public record in the office of the Commission.

Attachment A

POSITIONS EXCLUDED FROM CIVIL SERVICE

The following positions are excluded from coverage under Montgomery County Civil Service Regulations by the Montgomery County Civil Service Commission as authorized by Local Gov't Code §§ 158.002 and 158.009 and section 1.04 of these Regulations:

POSITIONS EXCLUDED		**AUTHORITY FOR EXCLUSION**
Elected officials		Local Gov't Code § 158.013(b)(3) - if elected under Constitution Local Gov't Code § 158.001(2) - if term of office is limited by the Constitution Civil Service Commission order
Appointed department heads		Local Gov't Code § 158.013(b)(3) - if appointed under Constitution Local Gov't Code § 158.001(2) - if term of office is limited by the Constitution Civil Service Commission order
All contract employees (i.e., independent contractors)		Local Gov't Code § 158.002 - allows creation of a civil service system to include all employees of the county; GA-0243 (2004), at 4 Civil Service Commission order
All temporary employees		Civil Service Commission order
All part-time (less than 30 hours per week) employees		Civil Service Commission order
DEPARTMENT	**POSITIONS EXCLUDED**	**AUTHORITY FOR EXCLUSION**
Airport	None	
Animal Control	Assistant Director; Office Supervisor I	Civil Service Commission order
Animal Shelter	Office Supervisor II	Civil Service Commission order
Building Maintenance	Assistant Director; Administrative Manager I	Civil Service Commission order
Collections	Administrative Manager I	Civil Service Commission order
Community Development Block Grant	All	Civil Service Commission order
Community Supervision & Corrections	All	JC-0254 (2000)

DEPARTMENT	POSITIONS EXCLUDED	AUTHORITY FOR EXCLUSION
Constables	Chief Deputy; Captain; in addition, in the Precinct 5 Constable's office, all deputies serving in positions funded by the Magnolia Independent School District [1]	Arrington v. County of Dallas, 792 S.W.2d 468, 471 (Tex.App.-Dallas 1990, writ denied) - deputy constables perform governmental functions in their own right that involve some exercise of discretion [and are excluded under Local Gov't Code § 158.001(2) unless included by Civil Service Commission under Local Gov't Code § 158.009(a)(1); see County of Dallas v. Wiland, 216 S.W.3d 344, 348 (Tex.2007); Nueces County v. Whitley, 997 S.W.2d 757, 759 (Tex.App.-Corpus Christi 1999, pet. denied)]; DM-385 (1996); LO97-016 Civil Service Commission order
Convention Center	Manager	Civil Service Commission order
County Attorney	All	Gov't. Code §§ 41.101 and 41.105; LO96-100
County Auditor	All	Local Gov't Code § 84.021(d); H-619 (1975) - assistant county auditor Civil Service Commission order
County Clerk	Administrative Manager II; Administrative Manager I; System Administrator II [2]	Civil Service Commission order
County Commissioners	Manager of Precinct Operations; Attorney	Civil Service Commission order
County Engineer	First Asst. County Engineer	Civil Service Commission order
County Judge	Chief of Staff	Civil Service Commission order
County Treasurer	Administrative Manager I	Civil Service Commission order
County Parks	None	
Courts - District & County Courts at Law	All	Local Gov't Code § 158.013(b)(2) - official shorthand reporter; Clark v. Young, 787 S.W.2d 166 (Tex.App.-Fort Worth 1990, writ denied) - court coordinators Civil Service Commission order

[1] Each position funded by the Magnolia Independent School District will remain covered under the Montgomery County Civil Service Regulations until the person occupying the position on June 22, 2011 ceases to serve in that position.

[2] This position will remain covered under the Montgomery County Civil Service Regulations until the person occupying the position on July 29, 2011 ceases to serve in that position.

DEPARTMENT	POSITIONS EXCLUDED	AUTHORITY FOR EXCLUSION
Custodial Services	Office Manager; Operations Manager	Civil Service Commission order
Department of Public Safety	All	Civil Service Commission order
District Attorney	All	Local Gov't Code § 158.013(b)(1); Gov't Code §§ 41.101 and 41.105
District Clerk	Administrative Manager I and II	Civil Service Commission order
Drug Court	All	Local Gov't Code § 158.013(a)(2) - official shorthand reporter Civil Service Commission order
Elections	Assistant Elections Administrator; Administrative Manager II; Systems Administrator III; Systems Administrator II	Civil Service Commission order
Emergency Management	Deputy Director	Civil Service Commission order
Environmental Health	Assistant Director, Associate Director, On-site Sewage Facilities (OSSF) Coordinator, Flood Plain Administrator	Civil Service Commission order 10/5/2007
Extension Service	Extension Agents	Civil Service Commission order
Fire Marshal	Supervisor - Arson Investigation; Supervisor - Fire Inspection	Civil Service Commission order
Forensic Services	Director, Forensic Pathologist	Civil Service Commission order
Human Resources	Asst. Director/Human Resources Generalist	Civil Service Commission order
Indigent Defense	All	Civil Service Commission order 11/18/2003; 1/22/2010
Information Technology	Assistant Director, Database Administrator, System Administrator II and III, Network Administrator	Civil Service Commission order
Justice of the Peace	Administrative Manager I	Civil Service Commission order
Juvenile Probation	All	H-672 (1975); H-942 (1977)
Law Library	All	Civil Service Commission order 4/17/2009
Library	Asst. Director, Branch Manager, Admin. Mgr. II	Civil Service Commission order
Nature Center	Manager	Civil Service Commission order
Office of Court Administration	All	Civil Service Commission order
Purchasing/Infrastructure	All	Civil Service Commission order

DEPARTMENT	POSITIONS EXCLUDED	AUTHORITY FOR EXCLUSION
Recycle Station	None	
Risk Management	Assistant Director; Safety Officer	Civil Service Commission order
Sheriff & Jail	Chief Deputy; Captain; Accountant; Mgr., Finance; Admin. Asst. II	Nueces County v. Whitley, 997 S.W.2d 757, 759 (Tex.App.-Corpus Christi 1999, pet. denied) - all deputy sheriffs are excluded under Local Gov't Code § 158.001(2) unless included by Civil Service Commission under Local Gov't Code § 158.009(a)(1) Civil Service Commission order
Tax Assessor-Collector	Chief Deputy - Operations; Chief Deputy - Administration; Assistant Chief Deputy; Executive Administrator; Administrative Manager I; Administrative Assistant II; Operations Manager; Collections Manager; Research Manager; Manager - Vehicle Title Department; Accounting Manager; Manager - Inventory Control; Manager - Refund Disbursement; Systems Administrator; Computer Analyst III; Compliance Officer; Branch Manager - West/Magnolia; Branch Manager - Northwest/Montgomery; Branch Manager - East/New Caney; Branch Manager - South/The Woodlands	Civil Service Commission orders
Veterans Services	Administrative Assistant II	Civil Service Commission order

Attachment A-1
HR-9
(1/2007)

Documentation of Verbal Counseling Session

Employee Name:_____Employee No.:_____

Position: _____ Department: _____

Reason for Counseling

Problem(s)/violation(s):

Expectations:

Is additional training needed? _____ If so, define:

_____ __ _____
Supervisor Signature Date signed by Supervisor

Attachment B
HR-10

DOCUMENTATION OF FIRST LEVEL DISCIPLINE
(For documenting continuation of minor offenses not previously corrected by verbal reprimands. This level of discipline is not grievable.)

Department _____Date _____

Employee _____ Position:_____

Verbal counseling has been conducted on approximately _____ occasions.

Reason for the discipline (state the policy that has been violated, the employee's conduct that has been inappropriate, and/or the performance that is expected but lacking):

State the conduct that is expected:

Action to be taken by department: ___ additional training ___ change in position (tosame pay grade and salary)

Employee response:

_____ _____
Supervisor's Signature Employee's Signature

cc: Elected Official/Department Head (original)
Employee
Human Resources Department

Attachment C
HR-11
(Rev. 1/29/2010)

DOCUMENTATION OF SECOND LEVEL DISCIPLINE
(For documenting serious offenses or continuation of minor offenses not corrected in the first level of discipline; this level of discipline is not grievable.)

Department _____ Date _____

Employee _____ First level discipline was given on _____ .

Reason for the discipline (state the policy that has been violated, the employee's conduct that has been inappropriate, and/or the performance that is expected but lacking):

___ See "Documentation of First Level Discipline"

___ First level discipline was not administered, but the severity of the following offense, behavior, or level of performance is so serious that this level of discipline is appropriate

Comments:

State the conduct that is expected:

_____ The same as stated in "Documentation of First Level Discipline"

Other:

Documentation of Second Level Discipline (cont.)

Action to be taken by department:

___ Additional training

___ Change in position (to same pay grade and salary)

___ Suspension of _____ days (no more than 3 days)

NOTICE: Montgomery County Employee Manual 2.4-3 states, in part, that action or inaction by an employee necessitating the completion of HR-11 or HR-12 have the effect of placing the employee on probation, i.e., of alerting the employee to the fact that his/her job performance is unacceptable and giving the employee time to improve. "Probation", in this context, is distinguished from "probation" in the context of the six month period certain newly hired employees must serve under Montgomery County Civil Service Regulation 2.12 before they are covered by civil service. "Probation" in the context of Employee Manual 2.4-3 is also distinguished from an evaluation period to which promoted employees are subject during which they must demonstrate the ability to successfully perform the new job as provided in Civil Service Regulation 2.26.

Employee response (attach additional pages if necessary):

_____ _____

Supervisor's Signature Employee's Signature

cc: Elected Official/Department Head (original)
Employee
Human Resources Department

Attachment D
HR-12
(Rev. 1/29/2010)

DOCUMENTATION OF THIRD LEVEL DISCIPLINE
(For documenting major offenses or a continuation of minor offenses which were not corrected in the 1st or 2nd levels of discipline or which are so severe that this level is appropriate; this level is grievable.)

Department _____ Date _____

Employee _____

___ See "Documentation of Second Level Discipline"

___ First and second level discipline was not administered, but the severity of the offense is so serious that this level of discipline is appropriate.

The following action is recommended, however no official action will be taken until after the employee responds or is given an opportunity to respond. If, after receiving the response, the decision is made to continue with the disciplinary action, the employee has the right to grieve the action.

___ days' suspension (more than 3 days)

___ demotion to _____ at _____hourly/bi-weekly
job title rate of pay

___ discharge

effective date _____.

Specific reason for the discipline (state the policy that has been violated and/or the employee's conduct/behavior that has been inappropriate):

DOCUMENTATION OF THIRD LEVEL DISCIPLINE (cont.)

Reason (cont.):

State the conduct that is expected:

_____ The same as stated in “Documentation of Second Level Discipline”

Other:

NOTICE: Montgomery County Employee Manual 2.4-3 states, in part, that action or inaction by an employee necessitating the completion of HR-11 or HR-12 have the effect of placing the employee on probation, i.e., of alerting the employee to the fact that his/her job performance is unacceptable and giving the employee time to improve. “Probation”, in this context, is distinguished from "probation" in the context of the six month period certain newly hired employees must serve under Montgomery County Civil Service Regulation 2.12 before they are covered by civil service. “Probation” in the context of Employee Manual 2.4-3 is also distinguished from an evaluation period to which promoted employees are subject during which they must demonstrate the ability to successfully perform the new job as provided in Civil Service Regulation 2.26.

Employee response (Your response must be received by the elected official/department head within 24 hours of the time you receive a copy of this form or the recommended disciplinary action will be final. You may attach additional pages as necessary.):

____ Employee chose not to respond

_____ _____

Supervisor/Elected Official/Department Head Employee’s Signature

cc: Elected Official/Department Head (original)
Employee
Human Resources Department

Attachment E
HR-13
(Rev. 9/7/2007)

NOTIFICATION OF DISCIPLINARY ACTION

Department _____ Date _____

Employee _____

On _____ (date) you were given a copy of Documentation of Third Level Discipline (HR-12) and were given the opportunity to respond in writing.

___ You have chosen not to respond and the discipline indicated on said form will be imposed.

___ I have received your response, and it is my decision to take the following action:

___ No disciplinary action will be taken at this time.

___ You are **suspended** for ___ days, beginning _____.

___ You are **demoted** to _____ effective _____. Your new pay rate is $_____ hourly/bi-weekly.

___ You are **discharged** effective _____.

___ Other:

_____
Elected Official/Department Head

Please be advised that you have the right to file a grievance with the Montgomery County Civil Service Commission. Should you choose to exercise that right, your grievance must be received by the Human Resources/Civil Service Director on form HR-14 (Employee Grievance Form) within ten (10) business days after the occurrence of the event or after you receive notice of the event giving rise to the grievance. A copy must be sent to your elected official/department head.

cc: Elected Official/Department Head (for file)
Human Resources Department

Attachment F
HR-14
(Rev. 3/25/2008)

Employee Grievance Form

This form and required documentation must be received by the Human Resources Department within ten (10) business days of the action being grieved or within ten (10) business days of the employee being made aware of the action being grieved.

Action being grieved:

___ Suspension of ___ days ___ Demotion ___ Discharge

Date (1) of action or (2) I became aware of the action _____

Do you work in a department with an internal appeal process? _____

___ a. Attached are copies of documents I will be presenting at the hearing.

___ b. Attached is a list of employees (if any) I will be calling to testify.

___ I have sent a copy of (a) and (b), above, to my elected official/department head.

_____ _____
Employee's Signature Date

_____ _____
Printed Name Department

The Elected Official/Department Head and the Civil Service Director should send all communications to the Employee or the Employee's representative as follows:

_____
Employee or Employee's Representative

_____
Address

_____
City, State, Zip

_____ _____
Telephone Fax

_____
E-mail

The right to grieve an action to the Montgomery County Civil Service Commission is available only in cases of (1) unpaid suspension of more than 3 days, (2) demotion to a position with a lower salary grade and/or pay rate, or (3) discharge.

Attachment G
HR-15
(Rev. 3/25/2008)

ELECTED OFFICIAL/DEPARTMENT HEAD RESPONSE TO
EMPLOYEE GRIEVANCE FORM

This form and required documentation must be received by the Human Resources/Civil Service Director within five business days after the department receives a copy of the employee's grievance.

Grievant: _____

Action being grieved:

___ Suspension of ___ days ___ Demotion ___ Discharge

Date (1) of action or (2) I became aware of the action _____

Does your department have an internal grievance process? _____
(If yes, attach copies of documents showing the results of that process.)

___ a. Attached are copies of documents I will be presenting at the hearing.

___ b. Attached is a list of persons (if any) I will be calling to testify.

___ I have sent a copy of (a) and (b), above, to the employee who has filed the grievance.

_____ _____
Signature of Elected Official or Department Head Date

_____ _____
Printed Name Department

The Employee and the Civil Service Director should send all communications to the Employee or the Employee's representative as follows:

_____
Elected Official/Department Head or Representative

_____
Address

_____
City, State, Zip

_____ _____
Telephone Fax

_____
E-mail

The right to grieve an action to the Montgomery County Civil Service Commission is available only in cases of (1) unpaid suspension of more than 3 days, (2) demotion to a position with a lower salary grade and/or pay rate, or (3) discharge.

Attachment H
HR-16
(Rev. 5/23/2005)

NOTICE OF REVERSAL OR MODIFICATION OF DISCIPLINARY ACTION
OF ELECTED OFFICIAL OR DEPARTMENT HEAD

TO: County Judge
Commissioner, Precinct #1
Commissioner, Precinct #2
Commissioner, Precinct #3
Commissioner, Precinct #4

FROM: Civil Service Director

DATE:

SUBJECT: REVERSAL/MODIFICATION OF DECISION BY CIVIL SERVICE COMMISSION

_____ vs. _____
Employee Elected Official/Department Head

On _____ (date) the Montgomery County Civil Service Commission considered the above grievance relative to a suspension, demotion, or discharge. The Commission reversed/modified the action of the elected official/department head and requests the following:

___ The employee is to return to work on _____ in his/her former position.

___ The employee is demoted to the position of _____.

The period of time between the suspension/discharge and the employee's return to work should be treated as follows:

___ Worked time in all respects: The suspension/discharge date shall be removed from the employee's file, and he/she will be paid for all hours he/she normally would have worked and receive all benefits he/she normally would have received. Employer is responsible for any employee benefit contributions it normally would have made. Employee will be responsible for any contributions he/she would normally have made.

____ Paid suspension: The discharge date shall become the date of suspension; all pay and benefits are to be restored (including the accrual of benefit hours), however the time will be reflected as a disciplinary suspension. Employer is responsible for any employee benefit contributions it normally would have made. Employee will be responsible for any contributions he/she would normally have made.

____ Unpaid suspension: The discharge date shall become the date of suspension; pay and accrued benefits will not be restored, however the absence will not be considered a break in service relative to eligibility for employee or future retiree medical benefits. Employer is responsible for any employee benefit contributions it normally would have made. Employee will be responsible for any contributions he/she would normally have made.

___ Employee may/may not use eligible accrued balances in order to receive back pay.

WARNING: THIS IS A GOVERNMENTAL RECORD. BY SIGNING THIS FORM AND HAVING THIS DOCUMENT NOTARIZED, YOU ARE SWEARING, UNDER OATH, THAT THE STATEMENTS MADE IN THE FORM ARE TRUE. YOU ARE SUBJECT TO THE PENALTIES OF PERJURY IF YOU MAKE A FALSE STATEMENT UNDER OATH. See Texas Penal Code § 37.02 and Hardy v. State, 213 S.W.3d 916 (Tex.Crim.App. 2007).

AFFIDAVIT

STATE OF TEXAS §

COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____ [printed name of person signing affidavit], known or proven to me to be the person whose signature appears below, who, upon being duly sworn, did say as follows:

_____

_____

_____

_____

_____

_____

_____

_____

_____
Signature

_____
Printed name

SWORN TO AND SUBSCRIBED BEFORE ME by _____ (printed name of person signing affidavit) on _____, 20____, to certify which witness my hand and seal of office.

[S E A L]

_____
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS