

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE MARICOPA COUNTY**

IN THE MATTER OF THE JUDICIAL
MERIT RULES

ADMINISTRATIVE ORDER
No. 2022-084

Pursuant to Arizona Supreme Court Administrative Order No. 2017-79, the presiding judge of the superior court is authorized to “develop and implement judicial branch personnel systems for the courts in their counties.” The Judicial Branch of Arizona in Maricopa County (the “Court”) adopted a Judicial Merit System in 1998. The Judicial Merit Rules created under this system have not been revised since 2014. The current Judicial Merit Commission has worked diligently with the Court’s Human Resources department to revise and improve the Merit Rules.

IT IS THEREFORE ORDERED adopting the Revised Judicial Merit Rules, effective July 1, 2022 (attached as Exhibit A).

Dated this 30th day of June, 2022.

/s/ Joseph C. Welty
Hon. Joseph C. Welty
Presiding Judge

Original: Clerk of the Superior Court

Copies: Raymond L. Billotte, Judicial Branch Administrator
Michael Cimino, Chief Adult Probation Officer
Eric Meaux, Chief Juvenile Probation Officer
Hon. Anna Huberman, Presiding Judge, Maricopa County Justice Courts
Chris Reams, Justice Courts Administrator



Attachment A

Judicial Merit System Resolution and Rules Revised July 2022

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**JUDICIAL MERIT SYSTEM RESOLUTION
JUDICIAL BRANCH IN MARICOPA COUNTY**

SECTION 1. TITLE

This Resolution shall be known and may be cited as the Judicial Merit System for the Judicial Branch of Arizona in Maricopa County.

SECTION 2. ADMINISTRATION

This Resolution shall be so construed and administered as to provide a uniform and equitable system of personnel administration of covered Employees in the Superior Court, Adult Probation, Juvenile Probation and Justice Courts Departments. Recruitment, selection, Appointment, development, Promotion, Transfer, Reduction-in-Force, classification, Compensation, Separation, discipline, Dismissal, Appeal hearings and provisions for the welfare and rights of Superior Court, Adult Probation, Juvenile Probation and Justice Court Employees shall be performed in a manner to secure and retain well qualified Employees to carry out court programs effectively and efficiently and to provide reasonable stability of employment in the Court Service.

SECTION 3. MERIT PRINCIPLES TO BE OBSERVED

The system of personnel administration for Employees in the Superior Court, Adult Probation, Juvenile Probation and Justice Court Service shall be based upon merit principles. All appointments and Promotions in the Court Service shall be made according to merit, performance and fitness as ascertained by examinations or pre-employment interviews given in accordance with the provisions of this Resolution.

SECTION 4. DEFINITIONS

The following words and terms shall have the meaning indicated below unless the context clearly indicates otherwise:

APPOINTING AUTHORITY: The single administrative or executive head of a court Department or Director for specified actions.

APPOINTMENT: The offer and the acceptance of employment in the Court Service.

CLASS: A Position or group of Positions sufficiently similar in duties and responsibilities that the same requirements for education, experience, knowledge, ability and other qualifications may be required of the incumbents so that Compensation can be applied with equity.

CLASSIFIED SERVICE: All Positions and Employees in the Court Service except those that are governed by the Classified Personnel Rules or those expressly designated as unclassified, temporary or contract Positions.

COMMISSION: The Judicial Merit System Commission.

CONTRACT EMPLOYEE: An Employee expressly designated as “Contract Employee” whose employment is subject to a written agreement and whose term of employment is for a limited duration.

DEPARTMENT: Superior Court, Adult Probation Department, Juvenile Probation Department, and Justice Courts.

DIRECTOR: The Court Human Resources Director for the Judicial Branch.

DISCIPLINARY ACTION: The corrective action taken by an Appointing Authority against an Employee, including but not limited to verbal reprimand, written reprimand, Suspension, Demotion or Dismissal.

ELIGIBLE: A person who meets the minimum qualifications for a specific Class.

EMPLOYEE: A person who is paid a wage, or salary from public monies in accordance with official entries on a court payroll.

JUDGES: The body of the Judges of the Superior Court of Arizona - Maricopa County.

JUDICIAL MERIT SYSTEM RULES: The Rules for Judicial Merit System – Judicial Branch of Arizona in Maricopa County.

POSITION: A specific employment, whether occupied or vacant, involving duties requiring the service of one person.

PRESIDING JUDGE: The Judge designated by the Arizona Supreme Court, pursuant to A.R.S. Constitution Article VI, §11, to exercise administrative supervision over the Superior Court in Maricopa County.

PROBATION: A specified period of employment following Appointment, Reinstatement, Transfer, Promotion or Demotion during which the work performance of an Employee is evaluated.

PROMOTION: A change in the assignment of an Employee to a different classification having a higher salary range.

REGULAR STATUS: The status an Employee achieves when retained in a Position of the Classified Service after the successful completion of the initial Probation period as identified in these rules.

SUSPENSION: The temporary removal of an Employee without pay for disciplinary reasons.

TRANSFER: A change in the assignment of an Employee from a Position in a Court Department under one Appointing Authority to another Position in a Court Department.

SECTION 5. COURT SERVICE

- A. For the purposes of this merit system, Court Service shall encompass all Superior Court, Adult Probation, Juvenile Probation, and Justice Court employment in Maricopa County wherein persons are paid a wage or salary from public monies in accordance with official entries on a Court Service payroll. The Court Service includes only those who are covered by this Resolution and the Judicial Merit System Rules and shall not include persons who perform services for which payment is made on a fee, contract or claim basis, or temporary or On-call Employees.
- B. Notwithstanding any other provision of the Judicial Merit System - Maricopa County, the provisions of this Resolution shall not apply to Positions designated as unclassified, Positions expressly designated as contract, temporary or On-call, Positions expressly designated as exempt from this Resolution, or Employees in Positions covered by other personnel rules.
- C. The provisions of this Resolution shall not apply to individuals hired or promoted into full-time Superior Court Positions on or after March 1, 2014. Individuals hired or promoted into full-time Superior Court Positions on or after March 1, 2014, will be covered by the Classified Personnel Rules or will be unclassified Employees. In addition, a current Employee and Appointing Authority may agree that the provisions of this Resolution no longer apply to the Employee and that the Employee is subject to the Classified Personnel Rules or will be an unclassified Employee.
- D. If the Adult Probation Department, Juvenile Probation Department, or Justice Courts adopt the Classified Personnel Rules, the provisions of this Resolution shall not apply to the following: (1) Employees hired or promoted into full-time Positions with those departments after the date of adoption; or (2) Employees hired before the date of adoption, upon agreement of the Appointing Authority and the Employee.

SECTION 6. CLASSIFIED SERVICE

The Classified Service shall include all Positions and Employees in the Court Service except those that are governed by the Classified Personnel Rules or those expressly designated as unclassified or contract Positions.

SECTION 7. SUPERIOR COURT DEPARTMENT OF HUMAN RESOURCES

- A. There shall be in the Superior Court a Court Human Resources Department, the executive head of which shall be the Director, who shall be responsible to the Commission for the accomplishment of all Human Resources functions assigned by the Judges to the Commission and responsible to the Judges through the Presiding Judge and Court Administrator for other Human Resources functions in both the classified and the unclassified service.
- B. In the Court Human Resources Department there shall be a Commission of five members appointed by the Presiding Judge with the powers and duties hereinafter enumerated. The Commission shall have authority within Classified Service under this Resolution concerning discipline, terminations, and any other matters as directed by the Presiding Judge. It shall also advise the Presiding Judge, Judges, and Director on personnel matters for the Classified Service under this Resolution.

SECTION 8. JUDICIAL MERIT SYSTEM COMMISSION

- A. Members of the Commission shall be selected by the Presiding Judge.
- B. A member of the Commission may be removed by the Presiding Judge for cause. Any one of the following shall constitute the resignation of a commissioner and authorizes the Presiding Judge to appoint a new member to fill the unexpired term so vacated:
 - 1) Absence from three consecutive quarterly meetings.
 - 2) Becoming a Candidate for any elective public office except as authorized by the Presiding Judge.
 - 3) Accepting any appointive office or employment in the County or Court Service.
- C. The Commission shall elect one of its members to be chairperson. It shall meet at such times and places as shall be specified by call of a majority of the Commission or of the Chairperson. At least one meeting shall be held in each quarter. Three members shall constitute a quorum for the transaction of business.

SECTION 9. POWERS AND DUTIES OF THE JUDICIAL MERIT SYSTEM COMMISSION

The Commission shall perform such duties and exercise such powers as are necessary to carry out the provisions and intent of this Resolution for those Employees that are governed by this Resolution. In addition to the duties imposed upon it elsewhere, it shall be the duty of the Commission:

- A. To review and recommend to the Judges, through the Presiding Judge and the Director, such rules as it may find necessary or appropriate for the administration of the Judicial Merit System pursuant to the provision of Section 11 herein.
- B. To represent the public interest in the conduct of personnel administration for Employees in Court Service under this Resolution.
- C. To advise the Judges, through the Presiding Judge and the Director, of problems concerning personnel administration for Employees in Court Service under this Resolution.
- D. To advise and assist in fostering the interest in institutions of learning, civic, professional and Employee organizations in the improvement of personnel standards for Employees in Court Service under this Resolution.
- E. To make annual reports each year and such special reports as it considers desirable to the court regarding personnel administration regarding Employees in Court Service under this Resolution and recommendations for improvements.

SECTION 10. APPOINTMENT AND DUTIES OF THE DIRECTOR

- A. The Director shall be a person who has had experience in the field of public personnel administration and is in sympathy with the application of merit principles and scientific methods to public employment.

- B. The Director, as executive head of the personnel department, shall direct and supervise all of its administrative and technical activities. In addition to the duties imposed elsewhere, it shall be the duty of the Director:
- 1) To attend meetings of the Commission and to act as its secretary and keep minutes of its proceedings.
 - 2) To establish and maintain a roster of all Employees in Court Service under this Resolution, in which there shall be set forth, as to each Employee, the Class title, pay or status and other pertinent data.
 - 3) To appoint such Employees of the Human Resources Department and such special assistants as may be necessary to carry out effectively the provisions of this Resolution.
 - 4) To develop, in cooperation with appointing authorities and others, programs for the improvement of Employee effectiveness including training, health, counseling, and welfare.
 - 5) To review from time to time the operation and effect of the Judicial Merit System Rules to report findings and recommendations to the Judges, the Commission, the Presiding Judge, and the Court Department heads.
 - 6) To perform any other lawful act considered necessary or desirable to carry out the purposes and provisions of this Resolution.

SECTION 11. MERIT SYSTEM RULES

- A. The Director shall prepare and submit to the Presiding Judge and Commission proposed new Judicial Merit System Rules or amendments to existing Judicial Merit System Rules for Employees in Court Service. Reasonable notice shall be given to the heads of all departments or agencies affected and they shall be given an opportunity, upon request, to appear before the Commission to express their views thereon.
- B. The Commission's recommendations regarding new or amended rules shall be submitted to the Presiding Judge. Rules proposed by Court Departments may be submitted through the Director to the Commission for review and recommendations within sixty Days. The rules shall provide:
- 1) For periods of Probationary employment. During the initial Probation period following Appointment, any Employee may be Discharged/released without charges.
 - 2) For Transfer from a Position under one Appointing Authority to a Position under a different Appointing Authority if both Positions are governed by this Resolution and are involving similar qualifications, duties, responsibilities, and salary and providing for appropriate Probationary period.
 - 3) For Reinstatement within one year of persons who resign in good standing.
 - 4) For keeping records of performance of all Employees in the Classified Service under this Resolution.
 - 5) For reductions in force ("RIF") only for lack of funds, lack of work or abolishment of Positions, and for Reinstatement or Transfer of Employees affected by a RIF, giving consideration to factors such as qualifications, performance appraisals, work record, conduct and seniority.
 - 6) For the Suspension of Employees without pay, as a disciplinary measure.

- 7) For Discharge or Demotion of a Regular Status Employee only for cause.
- 8) For competitive selection of Employees for all Classes in the Classified Service.
- 9) For establishment of a plan for resolving Employee complaints and alleged discrimination, including disability.
- 10) For such other rules, not inconsistent with the administration of this Resolution, as may be proper and necessary for its enforcement.

SECTION 12. MINIMUM QUALIFICATIONS

The minimum qualifications of standards prescribed for any Court employment shall not be less than those prescribed by law and changes to a Class Specification that increase educational requirements shall have no effect on the eligibility of incumbents of the Class to progress in the series of the Class until a level of the series is reached that specifically requires a post-secondary degree, specific license, registration, certification, or similar accreditation.

SECTION 13. APPOINTMENTS TO UNCLASSIFIED SERVICE: RETURN TO CLASSIFIED FROM UNCLASSIFIED SERVICE

- A. An Appointing Authority may request from the Director a list of Eligible Candidates for a Position exempt from the Classified Service and may appoint an Employee from such a list.
- B. Any Employee in the Classified Service who has taken or takes a Position in the unclassified service and who thereafter is ready to report for duty for a Position in the Classified Service shall be placed on the Eligible list for the appropriate Class in which Regular Status was previously attained.

SECTION 14. REPRIMAND, SUSPENSION, DEMOTION, DISMISSAL

- A. An Appointing Authority may, for cause, reprimand an Employee in the Classified Service, who is subject to the Judicial Merit System Rules, or suspend such an Employee without pay for a period not exceeding thirty calendar Days. Employees exempt under Fair Labor Standards Act shall not be suspended without pay for a period less than one full workday.
- B. An Appointing Authority may demote an Employee in the Classified Service, who is subject to the Judicial Merit System Rules, from a Position in any given Class to a Position in a lower Class for which the Employee possesses necessary qualifications as allowed in the Rules. The Appointing Authority shall give the Director written notice of the intention to affect any such Demotion before the date it is intended to become effective. The Director may Transfer an Employee whose record is otherwise satisfactory to a similar Position (or one for which such Employee is qualified) under the jurisdiction of another Appointing Authority only with the approval of such other Appointing Authority.
- C. An Appointing Authority may remove any Employee with Regular Status only for cause. Each of the following constitutes cause for discipline or Dismissal of an Employee in the Court Service. This list is not all-inclusive:
 - 1) Fraud in securing or maintaining Appointment/employment.
 - 2) Incompetency.
 - 3) Inefficiency.

- 4) Abuse of sick leave.
- 5) Neglect of duty.
- 6) Insubordination.
- 7) Violation of Ethical Conduct Code(s).
- 8) Absence without leave.
- 9) Commission or conviction of a felony or of a misdemeanor, either of which would affect the Employee's suitability for continued employment.
- 10) Discourteous treatment of the public or fellow Employees.
- 11) Discrimination, including harassment, by an Employee against or in favor of an Applicant, Eligible, Employee, or member of the public, because of political affiliations, race, sex, religion, color, national origin, age, disability, or any other non-merit factor as determined by the Commission in accordance with ARS §41-1461, et seq. seq., or any other state or federal laws which may be applicable to employment with the Judicial Branch.
- 12) Misuse or destruction of government property.
- 13) The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, or reporting to work while impaired.
- 14) Willful non-compliance with Committee on Judicial Education and Training (COJET) standards.
- 15) Physical violence, or threat thereof, aimed at any person while on duty or at the workplace.
- 16) Falsifying, destroying, or altering court documents or other pertinent paperwork.

In addition to the causes for termination prescribed herein, the Judicial Merit System Commission may recommend other basis for Separation of employment that may be necessary under the circumstances.

- D. An Employee who is dismissed for medical reasons is not entitled to an Appeal. Instead, the Employee may seek reconsideration of the Dismissal and Reinstatement by submitting a letter to the Director requesting an administrative review within 10 calendar Days of the Dismissal (unless it can be shown that more than ten Days is required due to medical necessity). The letter requesting Reinstatement administrative review must include the reasons for seeking review, the relief requested, and current medical documentation demonstrating either (1) that the Employee suffers from a disability under the ADA and is able to perform the essential functions of the Position with or without a reasonable accommodation; (2) that the person is entitled to a leave of absence under the FMLA; or (3) if the person is not eligible for FMLA, that the Employee is entitled, as a reasonable accommodation under the ADA, to an unpaid leave of absence (the Employee should provide a reasonable estimate of when the Employee is anticipated to be able to return to workplace duties).

The Director will conduct the administrative review and may order the Employee's Reinstatement, with back pay if appropriate, if the Employee is determined to be disabled under the ADA and able to perform the essential functions of the Position with or without a reasonable accommodation. Alternatively, the Director may re-examine whether an unpaid leave is appropriate under the applicable legal guidelines as referenced above.

- E. Should an Appointing Authority have a reasonable basis to suspect that a Regular Status Employee has acted in violation of the Judicial Merit System Rules, the Appointing Authority and the Director shall:

- 1) Conduct an investigation and take all reasonable steps to ensure that such an investigation shall be conducted and completed within 90 calendar Days. If an investigation exceeds 90 calendar Days, a notice of the status of the investigation shall be provided to the Director every 30 calendar Days until completion of the investigation.
 - 2) If the Appointing Authority determines that a Suspension, Demotion or Dismissal is warranted, within 30 calendar Days of the completion of the investigation, the Appointing Authority shall issue written Notice of the Charges (“NOC”), setting forth the alleged violations of the Resolution and Rules and informing the Employee that the Employee may be subject to a Suspension, Demotion or Dismissal of employment.
 - 3) If an NOC is issued, it shall include notice that the Employee shall have the opportunity to respond to the charges in writing, and at a pre-disciplinary hearing with the Appointing Authority or its designee.
- F. Written notice of any formal Disciplinary Action to be taken shall be given to a Regular Status Employee, one copy of same shall be filed with the Director as ex-officio Clerk of the Commission, and one copy of same shall be filed with the Appointing Authority. Such notice shall set forth the reasons for such action in sufficient detail to indicate whether the Employee was Discharged for misconduct, incompetence, or other reasons relating to the effective performance of duties and shall be prepared in such form and given in such manner as the Director prescribes.

SECTION 15. APPEAL BY EMPLOYEE

- A. Any Employee holding a Regular Status Position in the Classified Service who is demoted, suspended, or dismissed for cause may Appeal to the Commission. Any Appeal shall be in writing and filed with the Director, as ex officio clerk of the Commission, not later than ten (10) calendar Days following the date of the receipt by the Employee of a written order from the Appointing Authority.
- B. A copy of such Appeal shall be forwarded by the Director to the Appointing Authority of the Employee and to the Commission. The Commission shall thereupon assign a time and place for a hearing and shall give notice thereof to all parties concerned. The hearing shall commence within 45 Days of receipt of the Appeal, if the Commission conducts the hearing, or within 45 Days of assignment to a Hearing Officer. The 45-day period will not restart if a hearing is reassigned to a different Hearing Officer. Upon commencement of the hearing, extensions to an Appeal may be granted, provided that both parties agree and provided that the hearing concludes within 45 Days of commencement.
- C. The Appellant may appear personally, produce evidence, have legal counsel or a non-attorney representative where applicable and, if requested by the Appellant, a public hearing.
- D. Both the Employee and Appointing Authority shall be notified reasonably in advance of the hearing. The Commission, or a duly appointed Hearing Officer, shall conduct the hearing. The Commission shall have a certified court reporter prepare a transcript of the hearing, including all testimony recorded manually or by a recording device, and certify the exhibits used during such hearing. The transcript and exhibits shall constitute the official record of the hearing and Employees may obtain copies of the transcript and exhibits at their own cost from the court reporter.

- E. Neither the Commission nor a Hearing Officer shall be bound by the Arizona or Federal Rules of Evidence. Upon completion of the Appeal, the Commission shall affirm, modify, or revoke the order of the Appointing Authority. The Commission shall also have the power to direct appropriate remedial action and shall do so after taking into consideration just and equitable relief to the Employee and the best interests and effectiveness of the Court Service.
- F. Within ten (10) Days of a decision by the Commission sustaining an Appeal, the Appointing Authority of the Employee shall take such measures as are necessary to comply with the remedial action directed by the Commission and shall render a report of such measures to the Director.
- G. The findings and decisions of the Commission shall be final and are not subject to judicial review.
- H. An Employee subject to a RIF by reason of economy, lack of work, insufficient appropriations, change in departmental organization or abolition of Position may file an Appeal with the Commission only on the grounds that the order of RIF has not been determined in accordance with this Resolution and the Judicial Merit System Rules.
- I. Matters involving examinations, Compensation and classification of Positions shall not be appealable under this section.
- J. The Commission may request the Presiding Judge issue subpoenas to compel attendance of any person and the production of any books or papers relating to any investigation or hearing authorized by this Resolution in accordance with the powers of the Judicial Branch.

SECTION 16. NONDISCRIMINATION

No discrimination shall be exercised in any manner by any court official, Appointing Authority, or Employee against or in favor of any Applicant, Eligible, or Employee because of political affiliations, race, sex, religion, color, national origin, age, disability or any other non-merit factor as determined by the Judicial Merit System Commission in accordance with ARS §41-1461 et seq., or any other state or federal laws which may be applicable to employment with the Judicial Branch.

SECTION 17. POLITICAL ACTIVITY

Employees may only engage in political activity as authorized in the Code of Conduct for Judicial Employees.

SECTION 18. NONCONFORMITY WITH FEDERAL AND STATE STANDARDS

Any provision of this Resolution or the Judicial Merit System Rules which conflicts or is inconsistent with Arizona Revised Statutes, Federal law, regulations, or standards governing the grant of federal funds or state assistance to a Court Department shall not be applicable to such Positions.

SECTION 19. COMPLIANCE

All officials, appointing authorities and other Court Employees shall conform to, comply with, and aid in carrying into effect the provisions of this Resolution and the Judicial Merit System Rules adopted hereunder.

SECTION 20. SCOPE OF RESOLUTION

This Resolution replaces all prior Resolutions of the Judges of the Superior Court of Arizona - Maricopa County, concerning the subject matter contained herein. This Resolution, and the applicable Judicial Merit System Rules, shall not apply to the Employees of the Clerk of Court, as the Employees are presently covered under the Maricopa County Employee Merit Rules. The Presiding Judge, by administrative order, may direct the application of this Resolution to the Employees of the Office of the Clerk of Court, upon request by the Clerk of the Court and the action of the Board of Supervisors to rescind the County Employee Merit Rule coverage.

SECTION 21. EFFECTIVE DATE OF RESOLUTION

This Resolution was initially adopted by the Judges of the Superior Court of Arizona - Maricopa County on the 6th day of May 1998, to be effective July 1, 1998, and to be administered according to its terms and the Judicial Merit System Rules.

RULES FOR JUDICIAL MERIT SYSTEM
Judicial Branch of Arizona in Maricopa County

RULE 1 - DEFINITIONS

The following words and phrases used in these Rules have the defined meanings hereinafter set forth unless otherwise clearly indicated in the context:

- 1.01 APPEAL: A written request filed with the Commission by an Employee for relief from a Suspension, Demotion, Dismissal or Reduction In Force pursuant to Section 15 of the Resolution.
- 1.02 APPELLANT: The Employee filing an Appeal with the Commission.
- 1.03 APPLICANT: A person who has filed a formal application for employment.
- 1.04 APPOINTING AUTHORITY: The single administrative or executive head of a Court Department or Director for specified actions.
- 1.05 APPOINTMENT: The offer and the acceptance by a person of a Position in the Court Classified Service in accordance with these Rules.
- 1.06 ARBITRARY: A decision is arbitrary if it is an unreasoning action, without consideration and in disregard of the facts and circumstances. A decision is also arbitrary if it is taken capriciously or at pleasure, or an action taken without adequate determining principle. The fact that similarly situated employees receive differing sanctions for the same offense may support a finding that a decision is arbitrary. A decision is not arbitrary solely because of the timing of an investigation or delivery of a written notice.
- 1.07 CANDIDATE: An Applicant approved for participation in the hiring process.
- 1.08 CLASS: A Position or group of Positions sufficiently similar in duties and responsibilities that the same requirements for education, experience, knowledge, ability and other qualifications may be required of the incumbents so that Compensation can be applied with equity.
- 1.09 CLASS CHANGE: The change in assignment of an Employee from one Class to another Class having the same range of pay.
- 1.10 CLASS SPECIFICATION: The official description of the type and level of duties and responsibilities of Positions assigned to a Class and the necessary qualifications which a person must possess for performing those duties
- 1.11 CLASSIFICATION PLAN: The orderly arrangement of Positions under separate and distinct Classes on the basis of current duties and responsibilities.

- 1.12 CLASSIFIED SERVICE: All Positions and Employees in the Court Service except those that are governed by the Classified Personnel Rules or those expressly designated as unclassified or contract Positions.
- 1.13 COMMISSION: The Judicial Merit System Commission.
- 1.14 COMPENSATION: The salary, wage, allowances, and all other forms of valuable consideration earned by or paid to an Employee except reimbursement for necessary expenses which have been authorized and incurred.
- 1.15 CONTRACT EMPLOYEE: An Employee expressly designated as “Contract Employee” whose employment is subject to a written agreement and whose term of employment is for a limited duration.
- 1.16 COURT DEPARTMENT: Superior Court, Adult Probation Department, Juvenile Probation Department, and Justice Courts.
- 1.17 DAYS: Calendar Days unless the context otherwise requires.
- 1.18 DEMOTION: A change in the assignment of an Employee from a Position in one Class to a Position in another Class having a lower range of pay.
- 1.19 DIRECTOR: The Court Human Resources Director for the Judicial Branch.
- 1.20 DISCHARGE: The involuntary Separation of a person from Court employment for cause.
- 1.21 DISMISSAL/SEPARATION: The termination of employment.
- 1.22 DISCIPLINARY ACTION: The appropriate action taken by an Appointing Authority against an Employee, which may include but is not limited to reprimand, Suspension without pay for not more than thirty Days, Demotion or Dismissal.
- 1.23 ELIGIBLE: A person who meets the minimum qualifications as stated in the Job Announcement.
- 1.24 EMPLOYEE: A person who is paid a wage, or salary from public monies in accordance with official entries on a Court payroll.
- 1.25 JOB ANNOUNCEMENT: The official public notice that a recruitment is being conducted.
- 1.26 JOB PROBATION: a specified Probation period (differentiated from initial Probation) following Transfer or Demotion, during which time the work performance of an Employee is evaluated.

- 1.27 HEARING OFFICER: A person appointed by the Judicial Merit System Commission or its chairman as a Hearing Officer, or any member of the Commission designated by it or its chairman as a Hearing Officer, for purposes of hearing Appeals.
- 1.28 ON-CALL: Temporary employment on an as-needed basis, as determined by the Appointing Authority.
- 1.29 POSITION: A specific employment, whether occupied or vacant, involving duties requiring the services of one person.
- 1.30 PROBATION: A specified period of employment following Appointment, Transfer, Promotion or Demotion, during which time the work performance of an Employee is evaluated.
- 1.31 PROBATIONARY EMPLOYEE: A person who is serving an initial Probation period in a Regular Status Position.
- 1.32 PROBATIONARY APPOINTMENT: The Appointment to a regular Position in accordance with these Rules.
- 1.33 PROMOTION: A change in the assignment of an Employee to a different Position having a higher salary range.
- 1.34 RECLASSIFICATION: Changing the classification of an existing Position when a material and permanent change in the duties or responsibilities of the Position occurs.
- 1.35 REASSIGNMENT: A change in the assignment of an Employee from one Position to another Position of the same Class under the same Appointing Authority.
- 1.36 REDUCTION IN FORCE (RIF): The Separation of an Employee for reasons of shortage of funds or work, or by reason of a bona fide abolishment of a Position, change in duties of the Position, or reorganization within the court Department.
- 1.37 REFERRAL: The Referral of the names of qualified Eligibles by the Human Resources Director to an Appointing Authority
- 1.38 REGULAR STATUS: The status an Employee achieves when retained in a Position in the Classified Service after successful completion of the initial Probation period.
- 1.39 REINSTATEMENT: The return of a former Employee to court Department service, who resigned in good standing from the Court Classified Service within twelve months of the date of Separation.
- 1.40 RESOLUTION: The Judicial Merit System for the Judicial Branch of Arizona in Maricopa County.
- 1.41 RESPONDENT: The court Department or Departments whose interests are adverse to those of the Appellant or who will be directly affected by the Commission's decision.

- 1.42 RULES: The Rules for Judicial Merit System – Judicial Branch of Arizona in Maricopa County.
- 1.43 SUSPENSION: The temporary Separation without pay of an Employee from a Position for disciplinary reasons.
- 1.44 TEMPORARY APPOINTMENT: Appointment to meet a temporary program need with a specified duration.
- 1.45 WITHOUT REASONABLE CAUSE: A decision is made “Without Reasonable Cause” if there is a lack of evidence sufficiently strong to justify a reasonable person in the belief that the acts charged are true.

Unless a term defined in the Resolution is otherwise defined in this Rule 1, the meaning given to the term in the Resolution shall apply to these Rules.

RULE 2 - GENERAL PROVISIONS

2.01 PURPOSE

The purpose of these Rules is to implement and give effect to the intent and requirements of the Resolution which establishes for the Court Service a uniform and equitable system of personnel administration based upon merit principles. These Rules shall be construed with regard to recruitment, selection, Appointment, development, Promotion, Transfer, Reduction In Force, classification, Compensation, Separation, discipline, Dismissal, Appeal hearings and provisions for the welfare and rights of Employees in the Court Service in a manner to secure and retain well qualified Employees to carry out Court programs effectively and efficiently and to provide reasonable stability of employment in the Court Service.

2.02 RULES

- A. These Rules shall apply to all classified Positions in the Court Service that are governed by the Resolution. These Rules shall not apply to individuals hired or promoted into full-time Superior Court Positions on or after March 1, 2014. In addition, these Rules shall not apply to current Employees upon agreement of the Appointing Authority and the Employee to change to unclassified status.
- B. If the Adult Probation Department, Juvenile Probation Department, or Justice Courts adopt the Classified Personnel Rules, these Rules shall not apply to the following: (1) Employees hired or promoted into full-time Positions with those Departments after the date of adoption; or (2) Employees hired before the date of adoption, upon agreement of the Appointing Authority and the Employee.
- C. Amendments to these Rules may be made by the Court from time to time in accordance with the Resolution.

2.03 EXEMPTIONS

In addition to the unclassified Positions provided in the Resolution, all contract, temporary or On-call Employees shall be exempt from the Resolution and Rules.

2.04 DIRECTOR'S DUTIES

- A. To serve as the executive and administrative head of the Judicial Merit System. governed by the Resolution and these Rules To program, direct, and supervise all of its administrative and technical activities.
- B. To attend all meetings of the Judicial Merit System Commission and provide for the recording of the minutes of its proceedings, and inform the Presiding Judge of its proceedings, and be the official custodian of all its records and keep the members of the Commission informed of all important matters occurring in administration of the personnel program that relate to Employees governed by the Resolution and Rules.
- C. To establish and maintain a roster of all classified Employees of the Court Service governed by the Resolution and Rules in which there shall be set forth as to each Position and Employee, the Class title, Position control number, the range and salary and any other necessary data.
- D. To appoint, under the provisions of the Resolution and these Rules, such Employees and such experts and special assistants as may be necessary to carry out effectively the provisions of the Resolution and Rules subject to budget limitations and any laws pertaining thereto.
- E. To formulate and prescribe procedures and forms consistent with these Rules and to publish them with reasonable instructions and guides.
- F. To develop, in cooperation with Appointing Authorities and others, training, health, counseling, welfare, educational, and staff development programs for Employees in agencies covered by these Rules.
- G. To announce, recruit, examine and otherwise provide staffing services to the court Departments that are governed by these Rules.
- H. To perform other acts and functions consistent with the Resolution and these Rules necessary or desirable to carry out their purpose and provide personnel administration for Employees in the Court Service governed by the Resolution and Rules.
- I. To prepare and submit, subject to review and approval by the Commission, budget requests covering the estimated costs for the Commission's program.

2.05 PERFORMANCE APPRAISAL

- A. The Director shall, with the approval of the Appointing Authorities, develop a performance appraisal system, and all Employees in the Classified Service shall be evaluated in accordance with this system at established intervals not less than annually, with rare exception granted by the Appointing Authority or designee.
- B. Performance appraisals shall be considered in determining training needs, salary advancements, order of Reduction In Force ("RIF") Transfer, re-employment, and as a means for identifying Employees who should be promoted, demoted, or dismissed.

2.06 PROGRAMS FOR EMPLOYEE DEVELOPMENT

The Director shall cooperate with court Department heads in developing and promoting programs for Employee training, safety, morale, work motivation, health, retirement counseling, and welfare.

2.07 MEMBERSHIP IN ORGANIZATIONS

- A. Employees in the Classified Service may join and hold office in any Employee organization, labor union, or professional association in which they are eligible for membership, provided that such Employee organization, labor union or professional association is not organized for any illegal purpose or primarily engaged in activities contrary to law, and provided further that membership in such organization does not create a conflict of interest.
- B. No person in the Court Service shall attempt to prohibit or intimidate any Employee in the Classified Service from belonging to or holding office in any lawful organization.
- C. Membership in such organization shall not be considered in any personnel action, including Promotion, Demotion, Suspension or Dismissal.

2.08 COMPLAINT PROCEDURE

- A. The Director shall establish a complaint procedure through which Employees may obtain consideration of complaints or problems in matters over which the Appointing Authority has complete or partial jurisdiction and for which redress is not provided elsewhere in these Rules. The purpose of the complaint procedure is to afford Employees a written and systematic means of obtaining further consideration of complaints after every reasonable effort has failed to resolve them through informal discussions initiated with their immediate supervisor.
- B. The complaint procedure of each court Department shall conform to the established procedure.
- C. The Employee may refer a complaint to the Director for review and response from the decision of the court Department head in a particular matter which is not covered by these Rules. The Director shall review the matter and provide a response thereon to the Employee and court Department head.
- D. All matters involving Compensation are not grievable.

2.09 DISCRIMINATION IN EMPLOYMENT

No court Department shall, because of the political affiliations, race, sex, religion, color, national origin, ancestry, age, disability, or any other non-merit factor of any person:

- A. Refuse to appoint or promote any individual.
- B. Suspend, demote or Discharge an Employee for a Position in the Classified Service.
- C. Discriminate in Compensation or in terms and conditions of employment.
- D. Refuse to review any complaint based on discrimination including disability, by any Employee regardless of status.
- E. Refuse to review a complaint based on discrimination, including disability by an Applicant.

2.10 REPRISALS

A court Department shall take no disciplinary or punitive action against an Employee in retaliation for, nor impede or interfere with, the exercise of the Employee's right of review, Appeal, or of any other Employee right under the Resolution and Rules.

2.11 RECORDS AND REPORTS

The Director shall prescribe necessary information and the general format for Court Department personnel records.

2.12 SERVICE OF NOTICE

Unless otherwise provided by law or these Rules, whenever any notice, paper or document is to be given to or served upon any person or Court Department by the Commission or the Director, such notice, paper, or document may be personally served or it may be served by certified mail or any trackable method to the mailing address on file with Court HR. Service, unless personally served, is complete upon mailing.

2.13 SEVERABILITY

If any provision of the Resolution or Rules, or the application thereof to any person or circumstances, is held invalid, the remainder of Resolution and Rules, or the application of such provision to other persons or circumstances, shall not be affected thereby.

2.14 CONFLICT WITH FEDERAL AND STATE REQUIREMENTS

Any provision of the Resolution or Rules which conflicts or is inconsistent with Arizona Revised Statutes, federal law, regulations, or standards governing the grant of federal funds or state assistance to a Court Department shall not be applicable to such Positions.

RULE 3 - JUDICIAL MERIT SYSTEM COMMISSION PROCEDURES

3.01 COMMISSION MEETINGS

The Judicial Merit System Commission shall hold meetings in accordance with the Arizona Open Meeting Act (ARS §38-431 et. seq.) and Section 8C of the Resolution.

- A. Regular Meetings shall be held quarterly. The Commission shall fix the time and place, not less than two weeks preceding the date of the meeting.
- B. Special Meetings may be held as often as needed, provided such meetings are held in accordance with the Open Meeting Act.

3.02 AGENDA

All matters to be presented for consideration by the Commission at a regular or special meeting shall be placed on the Commission's agenda without undue delay. The agenda shall be distributed to each member of the Commission prior to such a meeting.

3.03 NOTICE OF MEETINGS

- A. Public notice of Commission meetings shall be given (as required by ARS §38-431.02).
- B. Court Departments shall be given written notice of all regular and special Commission meetings. Said notice shall include the agenda or indicate where the agenda may be obtained.

3.04 MINUTES

The Director shall provide for the recording of the official actions of the Commission in its minutes. The time and place of each meeting of the Commission, the Commissioners present, all official acts of the Commission and, when requested, a Commissioner's dissent and reasons shall be recorded in the minutes. The Director shall cause the minutes to be transcribed and presented for approval or amendment at the next meeting. The minutes or a true copy thereof shall be open to public inspection except minutes of executive sessions.

RULE 4 - ANNOUNCEMENTS AND EXAMINATIONS

Announcements and examinations shall be conducted as required by court policy.

RULE 5 - REGISTERS

Registers, if used for a Position, shall be conducted as required by court policy.

RULE 6 - REFERRAL AND SELECTION OF ELIGIBLES

Referral shall be conducted as required by court policy.

RULE 7 - TYPES OF APPOINTMENT

7.01 APPOINTMENT TO COURT SERVICE

- A. Vacant Positions in the Classified Service may be filled by:
 - 1. Current Employees through Promotion, Demotion, Reassignment, Transfer, or Class Change.
 - 2. Former Employees by RIF return, Rehire, or Reinstatement
 - 3. other qualified Applicants by Probationary Appointment

7.02 REDUCTION IN FORCE-RETURN

Former Regular Status Employees separated because of a RIF may be re-employed subject to the successful completion of a Probationary period in accordance with these Rules.

7.03 REINSTATEMENT TO COURT SERVICE

Former Regular Status Employees from the Court Service who resigned in good standing, as evidenced by performance evaluations of “achieves” or above, or other record demonstrating quality of performance, shall be eligible for Reinstatement into a Position in the same Class from which they resigned, if such a Position is available and vacant, at the discretion of the Appointing Authority. The Appointment of such former Employees within one year of the date of Separation, as provided for in these Rules, shall constitute Reinstatement. A reinstated Employee is eligible for Appointment at a salary up to the salary attained prior to Separation, may be eligible for any market increase granted to Employees in the same Position, and shall be entitled to Reinstatement of all accrued sick leave forfeited at the time of Separation as long as six months of continuous service was completed, in accordance with the Judicial Branch Leave Policies. Reinstated Employees must serve the established initial Probationary period.

7.04 OTHER APPOINTMENTS

- A. Temporary and Appointments: The Appointing Authority may authorize the Appointment of temporary and On-call Employees.
- B. Emergency Appointment: The Appointment of an Employee without regard to the examination requirements of these Rules to a Position by reason of a governmental emergency shall constitute an emergency Appointment. An emergency Appointment may not exceed thirty working Days in duration and is non-renewable. Emergency Appointments shall have the prior approval of the Director except for night, weekend, or holiday emergencies which will be reported to the Director on following working day.

RULE 8 - PROBATIONARY PERIOD

8.01 NATURE, DURATION AND PURPOSE

- A. The Probationary period shall be utilized for the most effective adjustment of a new Employee and for the release of any Employee whose performance does not, in the judgment of the Appointing Authority, meet the required standard of performance. It also is valuable in Promotions to allow the Appointing Authority an opportunity to evaluate the Employee in the new assignment.
- B. The Probationary period shall usually be six months. The Appointing Authority may extend this Probationary period for specific Employees or for specified Classes for up to six additional months. The Director, upon written application and justification from an Appointing Authority, may establish an initial Probationary period of one year for a specific Class which may be extended for up to six additional months.

- C. The Director will issue instructions which include frequency and format of performance appraisals for all classified Employees.

8.02 INITIAL PROBATION

- A. A new or reinstated classified Employee shall serve the established Probationary period, unless extended, and shall achieve Regular Status if this initial Probation is satisfactorily completed.
- B. If a new Employee does not satisfactorily complete the initial Probation period, the Appointing Authority must either extend the Probation period or terminate the Employee. In either case, the Employee must be given written notice of the action taken by the Appointing Authority prior to the expiration of the established Probation period.
- C. In the event an Appointing Authority fails to take action as required (in 8.02 B above), the Employee shall be considered to have attained Regular Status.
- D. Employees hired into Court service after terminating employment with Maricopa County shall serve an initial Probationary period. If the Employee does not satisfactorily complete the initial Probationary period, the Employee may be released.
- E. Employees in this status have no right to Appeal.

8.03 PROMOTIONAL PROBATION

- A. An Employee who is promoted into a Position covered by the provisions of the Resolution and Rules shall serve the established Promotional Probation period in the new Position unless the Appointing Authority extends this period. Promotional Probation periods will not be extended except in extraordinary cases approved by the Director.
- B. A promoted Employee who fails to satisfactorily complete the Promotional Probationary period may revert to a vacant Position of the Class previously occupied if the Class previously occupied is currently covered by the provisions of the Resolution and Rules. If there is no vacancy in a Position of the former Class, the gaining Appointing Authority must attempt to place the Employee in another suitable Position. Only if all reasonable efforts to find another suitable Position are not successful, shall the Employee be Discharged. If the Class previously occupied is no longer covered by the provisions of the Resolution and Rules, such as having been converted by the Appointing Authority to unclassified status or is covered by Classified Personnel Rules and the promoted Employee fails to satisfactorily complete Promotional Probation, the Appointing Authority may place the Employee in another open Position covered by the Judicial Merit Resolution and Rules for which the Appointing Authority deems the Employee qualified, or dismiss the Employee if no other Position for which the Employee is qualified is available. An Employee who is dismissed pursuant to this rule is not entitled to an Appeal.

8.04 OTHER APPLICATIONS OF PROBATION

In addition to Appointment and Promotion situations, a Job Probation period may be required for other classification or personnel actions. It shall not be required for Reclassifications. The Appointing Authority may impose a Probationary period, subject to the same provisions as Rule 8.03, for some Demotions, Reassignments, and Transfers.

RULE 9 - PROMOTION, TRANSFER, REASSIGNMENT AND DEMOTION

9.01 PROMOTION

- A. Vacancies in the Court Service that are covered by the provisions of the Resolution and Rules shall be filled by competitive posting whenever practicable and in the best interest of the Court Service. Promotions shall be based upon merit and shall be made in accordance with the procedures established in the Judicial Branch Recruiting and Hiring Policy.
- B. An Employee who is promoted shall be required to serve a Probationary period as provided in these Rules.

9.02 TRANSFER

- A. Upon proper notice, an Employee may Transfer from a Position in one court Department to a Position in another court Department.
- B. In the event that, by action of the Presiding Judge, or otherwise, part or all of the functions of one court Department are Transferred to another court Department, the affected Employees of the Transferring court Department shall be accepted as Transfers by the receiving court Department at the same pay rate, unless the receiving court Department has no need for the particular Position or Positions. In the latter event, the Rule concerning Reduction In Force will apply.
- C. If an Employee, who is subject to the Resolution and Rules, voluntarily Transfers to another Position, Court Department the Employee agrees to become covered by the personnel system consistent with that Position – either the Resolution and Rules, or the Classified Personnel Rules.
- D. The Appointing Authority may authorize the Transfer of an Employee whose record is otherwise satisfactory from one Court Department to the same classification in another Court Department without a competitive process.
- E. If an Employee is subject to an involuntarily Transfer to another Position Court Department that is subject to the Classified Personnel Rules, the Employee remains subject to the provisions of the Resolution and Rules.
- F. County Employees that accept employment in the Court service shall serve an initial Probationary period.

9.03 REASSIGNMENT

At the discretion of the Appointing Authority, Employees may be reassigned from one Position to another Position in the same Class under the same Appointing Authority.

9.04 DEMOTION

- A. Until an Employee who has been promoted to a Position has successfully completed the prescribed Probationary period in such new Position, the Employee may be returned or demoted to a former or like Position or Class and shall have no right to Appeal such Demotion.

- B. An Employee with Regular Status may be demoted for cause as hereinafter set forth in Rule 10.03. If an Employee is subject to an involuntary Demotion to a Position that is subject to the Classified Personnel Rules, the Employee remains subject to the provisions of the Resolution and Rules.
- C. If, for personal or other reasons, an Employee requests in writing to be assigned to a Position of a lower Class, the Appointing Authority may authorize such a Demotion. In such cases, the Demotion will be deemed to have been made on a voluntary basis, and there shall be no right of Appeal. A copy of the Employee's written request shall be filed with the Director by the Appointing Authority.
- D. When an Employee is to be demoted, the Employee shall be required to meet the qualifications and testing standards in effect for that Position at the time of Demotion.
- E. If an Employee voluntarily demotes into a Position within a Department covered by the Classified Personnel Rules, as a condition of the Appointing Authority authorizing the Demotion, the Employee agrees to become covered under the Classified Personnel Rules, rather than the Resolution and Rules.

RULE 10 - SEPARATIONS AND DISCIPLINARY ACTIONS

10.01 GENERAL PROVISIONS

Except as otherwise provided in the Resolution and Rules, the tenure of an Employee with Regular Status shall continue during good behavior and the satisfactory performance of duties.

10.02 REDUCTION IN FORCE (RIF)

- A. An Employee may be separated from the Court Service through a RIF whenever it is necessary by reason of shortage of funds or work, or by reason of a bona fide abolishment of or change in duties of a Position, or when the court Department is reorganized and the need for the Position is eliminated.
- B. When a RIF is deemed necessary, the Appointing Authority may limit the RIF to a functional or organizational unit, or classification, in order to maintain work production and essential services.
- C. The Appointing Authority shall notify the Director who will establish, in consultation with the Appointing Authority, the order of preference of RIF for as many Employees as are to be separated. In any event, the Appointing Authority shall place all affected Employees in other Positions, if possible; the Director will attempt to place the remaining Employees, if any, in other vacancies in the Court Service.
- D. No Employee with Regular Status is to be separated by RIF while there are temporary, On-call or initial Probationary Employees serving in Positions in the same classification within the same functional or organizational unit that is subject to the RIF.
- E. In determining the order of RIF Employees with Regular Status, the Director and Appointing Authority shall consider on a consistent and equitable basis such factors as qualifications, performance appraisals, work record, conduct and seniority.
- F. The same rules and procedures will apply to Regular Status Employees in Positions funded by a grant or separate funding source when the RIF is limited to the grant or separate funding source. However, if the Employees in Positions funded by a grant or

separate funding source were not apprised in writing of the funding status at the time of placement into the Positions, Employees will be ranked together with other Employees to determine the order of RIF.

10.03 DISMISSALS, SUSPENSIONS AND DEMOTIONS

- A. A regular Employee may be subject to Suspension, Demotion or Dismissal of employment if the Appointing Authority finds cause to support such action provided in the Resolution and Rules. When the Appointing Authority finds reasonable basis to suspect that the Employee has acted in violation of the Resolution and Rules, the Appointing Authority shall provide notice to the Director and cooperate in any investigation of the alleged violation.
- 1) The Appointing Authority and the Director shall take all reasonable steps to ensure that such investigation shall be conducted and completed within 90 calendar Days. If an investigation exceeds 90 calendar Days, a notice of the status of the investigation shall be provided to the Director every 30 calendar Days until completion of the investigation.
 - 2) If the Appointing Authority determines that a Suspension, Demotion or Dismissal is warranted, within 30 calendar Days of the completion of the investigation, the Appointing Authority shall issue written Notice of the Charges (“NOC”) setting forth the alleged violations of the Resolution and Rules and informing the Employee that the Employee may be subject to a Suspension, Demotion or Dismissal of employment.
 - 3) The notice shall include the date and time the Employee may meet with the Appointing Authority or designee at a pre-disciplinary hearing at which the Employee may provide, verbally or in writing or both, any explanations, circumstances, or reasons why the proposed Disciplinary Action should not take place.
 - 4) The notice shall be presented, within 30 calendar Days of the completion of the investigation to the Employee in person or delivered by certified mail or any trackable method to the Employee’s last known address according to the records at the Court Human Resources Department.
- B. After the pre-disciplinary hearing, the Appointing Authority shall determine whether the Employee should be subjected to formal Disciplinary Action. If the Appointing Authority finds that the Employee should be subjected to formal Disciplinary Action, the Appointing Authority shall provide a written notice to the Employee, and a copy to the Director, of its finding including the action to be taken, the sections of the Resolution, Rules, or departmental rules that the Appointing Authority identifies as violated, and the specific reasons for taking the action. The Appointing Authority’s written notice shall include a provision informing the Employee of their right to Appeal the Appointing Authority’s decision to the Commission by submitting a written notice of Appeal to the Director within ten (10) calendar Days from the Employee’s receipt of the Appointing Authority’s written notice.
- 1) A decision shall normally be rendered within ten (10) working Days after the completion of the pre-disciplinary hearing.
 - 2) The notice shall be delivered in person or by certified mail or any trackable method to the Employee’s last known address according to the records at the Court Human Resources Department.

- C. An Employee with Regular Status may Appeal an adverse action as provided in these Rules.
- 1) At any time before receiving the Commission's notice of the time and place of the Appeal hearing, the Appointing Authority may serve on the Employee and file with the Commission an amended or supplemental written notice.
 - 2) After receiving the notice of time and place of Appeal hearing, the Appointing Authority may amend the written notice. However, if the discipline is amended while an Appeal is pending, and the amended discipline is Appealable, the Employee will be granted a continuance for a reasonable time to allow the Employee to prepare a defense.
 - 3) The Appointing Authority may rescind the adverse action at any time prior to a final decision by the Commission. If the action is rescinded, the Appeal becomes moot and is automatically withdrawn.

10.04 SEPARATION OR DISMISSAL DURING PROBATION PERIOD

- A. An Employee may be separated at any time during the initial Probationary period without the right of Appeal. However, in any case, Dismissal during an Employee's initial Probationary period, the Director may investigate the circumstances and causes for the action taken.
- B. A Promotional or Job Probationary Employee, who fails to satisfactorily complete the Promotional or Job Probationary period is subject to the provisions of Rule 8.03. A Promotional or Job Probationary Employee, who is suspended or dismissed, has the right to review the circumstances with the Director. An Employee seeking a review of circumstances by the Director shall submit a letter to the Director requesting such review.

10.05 RESIGNATIONS

- A. **Voluntary Resignation**
An Employee who desires to terminate service with the Court Service is expected to submit a written resignation to the Appointing Authority at least two weeks prior to the effective date of the resignation. An Employee with Regular Status who voluntarily resigns does not have the right to Appeal to the Commission.
- B. **Job Abandonment**
An Employee who is absent for three or more consecutive Days without authorized leave is automatically considered to have resigned; except where extenuating circumstances are found to have existed. An Employee that resigns under these circumstances does not have the right to Appeal to the Commission. An Employee wishing to present extenuating circumstances shall submit a letter to the Appointing Authority.

10.06 RETIREMENT

An Employee with Regular Status who is retired as provided under the State Retirement Plan (or System) is deemed to be separated without prejudice and does not have the right to Appeal to the Commission.

RULE 11 - APPEALS

11.01 MATTERS WHICH MAY BE APPEALED

- A. Employees in the Classified Service who have attained Regular Status may Appeal in writing within ten (10) calendar Days of receipt of a written order from the Appointing Authority for Dismissal, Demotion, or Suspension pursuant to Section 15 of the Resolution.
- B. An Employee separated without prejudice from the Court Service, including a Dismissal for medical reasons, is not entitled to an Appeal. Such Employee may request an administrative review as provided in Section 14 of the Resolution.

11.02 APPEAL

Every Appeal to the Commission must be filed in writing with the Director in the Court Human Resources Department not later than ten (10) calendar Days following the date of the receipt by the Employee of a written order from the Appointing Authority for Dismissal, Demotion, or Suspension, with written notice to the appropriate Appointing Authority. It will be considered filed when received in the office of the Director. It shall state the facts upon which it is based, and the action requested of the Commission. The Appeal shall provide in sufficient detail the necessary facts and identity of all persons or agencies concerned, in a manner that the Commission may understand the nature of the proceeding and Appeal. Unless the Appeal names some other Respondent, the Appointing Authority shall be considered the Respondent. The Director shall serve a copy of the Appeal on the Respondent within three working Days.

11.03 ANSWER

No answer to the Appeal need be filed by the Respondent. If an answer is filed prior to the hearing, a copy thereof shall be sent by the Director or Hearing Officer to the Appellant.

11.04 HEARING OFFICERS

An Appeal may be assigned by the Commission or its chairperson to a Hearing Officer for hearing. Hearing Officers assigned shall be individuals who have training and knowledge of the Resolution and Rules and have certified the absence of any conflicts of interest. When Appeals are assigned to Hearing Officers, they shall be the authorized representatives of the Commission and are fully authorized and empowered to grant or refuse extensions of time, to set such proceedings for hearing, to conduct the hearing, and to take any action in connection with the proceedings which the Commission itself is authorized to take by law or by these Rules, other than making the final findings of fact, conclusions of law and order. Only the Presiding Judge or designee may issue and quash subpoenas. No assignment of an Appeal to a Hearing Officer shall preclude the Commission or its chairperson from withdrawing such assignments and conducting the hearing itself or from reassigning an Appeal to another Hearing Officer.

11.05 TIME FOR HEARING

The Commission shall assign a time and place for a hearing and shall give notice thereof to all parties concerned. The hearing shall commence within 45 Days of receipt of the Appeal, if the Commission conducts the hearing, or within 45 Days of assignment to a Hearing Officer to conduct the hearing. The 45-day period will not restart if a hearing is reassigned to a different Hearing Officer. Upon commencement of the hearing, extensions to an Appeal may be granted, provided that both parties agree and provided that the hearing concludes within 45 Days of commencement.

11.06 NOTICE OF HEARING

Written notice of the time, date, place of hearing of an Appeal, and the name of the Hearing Officer, if any, shall be served by the Director on the Appellant and the Respondent at least seven calendar Days before the date of such hearing. This notice may be delivered personally, by certified mail, or by any trackable method.

11.07 NATURE OF HEARING

Each hearing shall be private unless the Appellant requests a public hearing. Parties may represent themselves or be represented by legal counsel or a non-attorney representative of their choosing. The hearings shall be informal, and neither the Federal or Arizona Rules of Evidence shall apply to the proceedings, except that irrelevant, immaterial, incompetent, or unduly repetitious evidence or evidence protected by the rules of privilege recognized by law may be excluded. All testimony at the hearing shall be recorded manually or by recording device.

11.08 EXCLUSION OF WITNESSES

Upon the motion of any Appellant or Respondent, the Commission or Hearing Officer, if any, may exclude from the hearing room any witnesses not at the time under examination. Parties to the proceedings and their legal counsel or non-attorney representative, however, shall not be excluded.

11.09 WITNESS FEES

Witnesses, other than Employees, when subpoenaed to attend a hearing or investigation are entitled to the same fee as is allowed witnesses in civil cases in courts of record. If a witness is subpoenaed Hearing Officer and attends the hearing, fees and mileage may be paid upon presentation of a duly executed claim in a manner provided for by the Director. If a witness is subpoenaed upon request of the Appellant or Respondent, the fees and mileage shall be paid by the party requesting the subpoena. Reimbursement to Employees subpoenaed as witnesses shall be limited to payment of mileage by the party making the request.

11.10 DEPOSITIONS

If a witness does not reside within the County or within one hundred (100) miles of the place where the hearing or investigation is to be held, is out of the state or is too infirm to attend the hearing or investigation, parties thereto at their own expense may cause a deposition to be taken. If the presence of a witness cannot be procured at the time of hearing or investigation, the deposition may be used in evidence by either party or the Commission.

11.11 PROPOSED FINDINGS OF FACT

Both Appellant and Respondent shall have the right to file proposed findings of fact within ten (10) working Days following the conclusion of the hearing. The proposed findings of fact prepared by the Hearing Officer, if a Hearing Officer is appointed, and the final findings of fact made by the Commission shall include a ruling upon any findings proposed by the Appellant or the Respondent.

11.12 DUTIES OF THE HEARING OFFICER

In all cases assigned to Hearing Officers for hearing, they shall prepare for the Commission proposed findings of fact and conclusions of law, and a recommended disposition of the case (“Proposed Findings of Fact, Conclusions of Law and Recommendations”) in such form that they may be adopted as the Commission’s findings and conclusions in the case, except as otherwise directed by the Commission. A copy of the Proposed Findings of Fact, Conclusions of Law and Recommendations shall be filed by the Hearing Officer with the Commission through the Director within the later often (10) working Days following receipt of the hearing transcript or ten (10) working Days following receipt of all proposed findings of fact submitted by the parties to the Appeal. The Hearing Officer may be present during the consideration of the case by the Commission, and if requested, shall assist, and advise the Commission.

11.13 FILING OF WRITTEN OBJECTIONS

Both the Appellant and the Respondent shall receive copies of the Proposed Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer in all cases assigned to a Hearing Officer. The parties shall have ten (10) working Days from receipt Hearing Officer to file with the Commission any written objections (not post- hearing evidence) they might have concerning the Hearing Officer’s Proposed Findings of Fact, Conclusions of Law and Recommendations. If one party files objections, the other party may file a written response within ten (10) working Days or before the next Commission meeting, whichever occurs first. A copy of other written objections is to be served upon other interested parties.

11.14 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Commission shall make written Findings of Fact, Conclusions of Law, and an Order at the next scheduled meeting after the conclusion of all hearings or, if the case is assigned to a Hearing Officer, the next scheduled meeting after receipt of the Hearing Officer’s Proposed Findings of Fact, Conclusions of Law and Recommendations that account for all hearings. A copy of the Commission’s Findings of Fact,

Conclusions of Law and Order shall be sent by certified mail or any trackable method to the Appellant and the Respondent at their last known mailing address, addresses given at the hearing or to a representative designated to receive same, or hand delivered in person to both parties.

11.15 WITHDRAWAL OF AN APPEAL

The Appellant may submit a written request to withdraw an Appeal at any time prior to the decision by the Commission; the Appellant shall submit copies of the request to the Director.

11.16 DECISION BY COMMISSION

The Commission may adopt or reject the Hearing Officers' Proposed Findings of Fact, Conclusions of Law and Recommendations in their entirety, modify them, decide cases upon the record, or set additional hearings to take additional evidence. When the Commission elects to set an additional hearing to take additional evidence, the Commission may refer the case to a Hearing Officer. If, after the hearing(s), a majority of the Commission determines that the action rendered by the Appointing Authority was Arbitrary or taken Without Reasonable Cause, the Appeal shall be sustained, or the Disciplinary Action modified. The Commission shall also have the power to direct an appropriate remedial action and shall do so after taking into consideration just and equitable relief to the covered Employee in the best interest of the Judicial Branch and the public.

11.17 COMPLIANCE OF APPOINTING AUTHORITY

- A. In the event the Commission orders the Respondent to reinstate the Appellant, it may also order the Respondent to reinstate the Appellant with or without back pay for such period and in such amounts as the Commission deems proper under the circumstances.
- B. The Findings of Fact, Conclusions of Law and Order of the Commission shall be final and are not subject to judicial review. Within ten (10) calendar Days of a decision by the Commission sustaining an Appeal, the Appointing Authority of the Employee shall take such measures as are necessary to comply with the remedial action directed by the Commission and shall render a report of such measures to the Director.

RULE 12 - CLASSIFICATION PLAN

Classification shall be conducted pursuant to court policy.

RULE 13 - PAY

Position in range, ranges, and other Compensation issues shall be conducted pursuant to court policy.

RULE 14 - LEAVE PLAN

Employee leave shall be administered pursuant to court policy.