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

IN THE MATTER OF CLASSIFIED PERSONNEL RULES	)))	ADMINISTRATIVE ORDER NO. 2014-013

WHEREAS, pursuant to Arizona Supreme Court Administrative Order No. 2005-32, the presiding judge of the superior court is authorized to "develop and implement judicial branch personnel systems for the courts in their counties;" and

WHEREAS, the Superior Court of Arizona in Maricopa County (the "Court") adopted a Judicial Merit System for the Judicial Branch of Arizona in Maricopa County (the "Merit Rules") in 1998; and

WHEREAS, the Merit Rules have not been significantly revised since the adoption in 1998; and

WHEREAS, a revised personnel system is necessary to secure, retain, and promote well-qualified employees to carry out Judicial Branch functions effectively and efficiently, and provide reasonable stability of employment in the Judicial Branch;

IT IS ORDERED adopting the Classified Personnel Rules, effective March 1, 2014 (attached as Exhibit A). The Classified Personnel Rules shall apply to all Superior Court employees hired or promoted on or after March 1, 2014, or as otherwise stated in 2.02 of the Classified Personnel Rules.

Dated this 14th day of February, 2014.

/s/ Norman J. Davis

Norman J. Davis
Presiding Judge

Original: Clerk of the Superior Court

Copies: Raymond L. Billotte, Judicial Branch Administrator
Barbara Broderick, Chief Adult Probation Officer
Eric Meaux, Chief Juvenile Probation Officer
Hon. C. Steven McMurry, Presiding Judge, Maricopa County Justice Courts
Marty Vance, Justice Courts Administrator

Classified Personnel Rules
Effective March 1, 2014
Judicial Branch of Arizona in Maricopa County

RULE 1 – DEFINITIONS

The following definitions apply to these Rules.

1.01 Administrative leave: Removal of an employee from the workplace by an Appointing Authority with pay pending an investigation or appeal or for other good cause.

1.02 Appeal: A written request for relief from a dismissal, suspension of more than 40 hours unless a shorter timeframe is required by statute, or demotion under the Rules.

1.03 Appealable Disciplinary Action: A dismissal, demotion or suspension of more than 40 hours. If a statute provides a shorter timeframe in which just cause is required for the suspension, the shorter timeframe from the statute shall be used in place of more than 40 hours.

1.04 Appointing Authority: The Judicial Branch Administrator, Chief Adult Probation Officer, or Chief Juvenile Probation Officer.

1.05 Business days: Monday through Friday excluding Judicial Branch holidays.

1.06 Court: Superior Court of Arizona in and for the County of Maricopa.

1.07 Days: Calendar days unless explicitly stated otherwise.

1.08 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.

1.09 Dismissal: The involuntary termination of employment.

1.10 Disciplinary Decision: A formal written statement issued by an Appointing Authority following the pre-disciplinary hearing setting forth the action to be taken, which may include Appealable Disciplinary Action, and the basis for the action.

1.11 Disciplinary Notice: A written statement issued by an Appointing Authority to an employee setting a pre-disciplinary hearing and giving the employee reasonable notice of the grounds for the proposed discipline, but need not specify the discipline contemplated.

1.12 Employee: A person who is employed by the Judicial Branch.

1.13 HR Director: The Judicial Branch Human Resources Director.

1.14 Judicial Branch: Court Administration, Adult Probation Department, Juvenile Probation Department, and Justice Court Administration.

1.15 Just cause:

"Just cause" means:

(a) The employer informed the employee of the possible disciplinary action resulting from the employee's conduct through manuals, employee handbooks, the employer's rules and regulations or other communications to the employee or the conduct was such that the employee should have reasonably known disciplinary action could occur.

(b) The disciplinary action is reasonably related to the standards of conduct for an employee, the mission of the employer, the orderly, efficient or safe operation of the employer or the employee's fitness for duty.

(c) The discipline is supported by a preponderance of evidence that the conduct occurred.

(d) The discipline is not excessive and is reasonably related to the seriousness of the offense and the employee's service record.

1.16 Probation: A specified period of employment in which the employee is evaluated for regular status.

1.17 Reassignment: A change in the assignment of an employee from one position to another position of the same class under the same Appointing Authority.

1.18 Reclassification: A change in the classification of an existing position when a material and permanent change in the duties or responsibilities of the position occurs.

1.19 Regular status: The status an employee achieves when retained in a position after successful completion of any applicable probationary period.

1.20 Reinstatement: The return of a former employee to Judicial Branch employment within one year. A return of a former employee to Judicial Branch employment after one year is not considered a reinstatement, but is instead considered reemployment.

1.21 Respondent: The department taking the Appealable Disciplinary Action, such as Superior Court for Superior Court employees.

1.22 Rules: These Classified Personnel Rules.

1.23 Suspension: The temporary removal of an employee without pay for disciplinary reasons. Only the Appointing Authority may issue a suspension.

1.24 Transfer: A change in the assignment of an employee from one position to another position of the same class under a different Appointing Authority.

RULE 2 – GENERAL PROVISIONS

2.01 PURPOSE

The purpose of the Rules is to establish a fair and efficient system of personnel administration for the Judicial Branch. The Rules shall be construed in a manner to secure, retain, and promote well-qualified employees to carry out Judicial Branch functions effectively and efficiently, to provide reasonable stability of employment in the Judicial Branch, and to foster an inclusive, diverse, and respectful working environment.

2.02 APPLICABILITY

The Rules shall apply to all full-time Superior Court employees hired or promoted on or after March 1, 2014, except unclassified employees. The Appointing Authority may designate employees hired before March 1, 2014 to be governed by the Rules with the agreement of the Appointing Authority and the employee. The Appointing Authority may designate a position unclassified and may appoint persons to unclassified positions which may be created in the future.

The Rules do not apply to employees of the Adult Probation Department, Juvenile Probation Department, or Justice Courts, or a judge's personal staff, including judicial assistants, bailiffs, and court reporters who report directly to a judge. The Adult Probation Department, Juvenile Probation Department, or Justice Courts may adopt these rules at a later date; at which time, the Rules will apply to all full-time employees hired or promoted after the date adopted and to current employees by agreement of the Appointing Authority and the employee.

The Rules do not apply to persons who perform services for which payment is made on a fee, contract or claim basis, or temporary or on-call employees.

2.03 AMENDMENT

The Judicial Branch may amend the Rules upon approval of the Presiding Judge.

2.04 JUDICIAL BRANCH HUMAN RESOURCES DIRECTOR'S DUTIES

The HR Director is responsible for implementing the Rules, subject to the direction and approval of the Presiding Judge and Judicial Branch Administrator. The HR Director shall:

1. develop best practices for the efficient implementation of the Rules;
2. develop and manage forms, procedures, and administrative support to carry out the Rules;
3. conduct investigations under the Rules;
4. maintain records related to the Rules;
5. cooperate with the Presiding Judge and Appointing Authorities to develop job announcements, disseminate such announcements, field inquiries, gather applications, and organize interviews;

6. provide reasonable instructions and information to employees in order for employees to learn about or exercise their rights under the Rules;
7. provide information and support to management in matters related to the Rules;
8. keep the Presiding Judge, Judicial Branch Administrator, and Appointing Authorities informed of important matters related to the Rules and the administration thereof;
9. recommend amendments to the Rules, as needed;
10. carry out other responsibilities related to the Rules as directed by the Presiding Judge and Judicial Branch Administrator.

Nothing in the Rules shall be construed to interfere with the HR Director's additional duties not explicitly set forth herein.

2.05 DISCRIMINATION PROHIBITED

The Judicial Branch is an equal opportunity employer committed to providing an inclusive working environment and valuing all of its employees. The Court's non-discrimination policy is applicable to these Rules.

2.06 SEVERABILITY

If any provision of these Rules or the application thereof is held invalid, the remainder of the Rules shall not be affected thereby.

2.07 CONFLICT WITH FEDERAL OR STATE LAW

Any provision of these Rules which conflicts or is inconsistent with state, federal or local law, regulations or standards governing the grant of federal funds or state assistance, shall not be applicable insofar as they violate such authority.

RULE 3 – HIRING, PROMOTION, REASSIGNMENT, TRANSFER

In order to provide the best possible services to the public and maintain a fair and inclusive workplace, the Judicial Branch strives to hire, promote, and retain the most qualified applicants with excellent skills and experience. To accomplish this goal, Human Resources will assist in the hiring and promotion process to ensure candidates meet or exceed minimum qualifications.

3.01 COMPETITIVE INITIAL HIRING

The Judicial Branch will utilize a competitive process for initial hiring. The Judicial Branch will post job openings for at least three business days. The Judicial Branch may conduct pre-employment checks or testing authorized by law or policy.

3.02 PROMOTIONS

The Judicial Branch will typically use a competitive process for promotions and post job openings for at least three business days before filling a position through promotion. The Appointing Authority or Presiding Judge may waive the competitive process or posting requirement for promotions. The Judicial Branch may conduct pre-employment checks or testing authorized by law or policy. Reclassifications do not require a posting or competitive recruitment.

3.03 REASSIGNMENT, TRANSFER

At the discretion of the Appointing Authority, employees may be reassigned or transferred.

RULE 4 – PROBATIONARY PERIOD

4.01 NATURE, DURATION, PURPOSE, AND TERMS

A. All positions covered by these Rules have a probationary period. 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.

B. The probationary period shall be six or more months as determined by the Appointing Authority, typically not to exceed one year. The Appointing Authority may extend the probationary period.

C. At least one evaluation is required prior to the completion of any probationary period.

D. Employees in probationary status of any kind, including initial, promotional or other probation, have no right to appeal under the Rules.

E. If an employee does not satisfactorily complete the probationary period, the Appointing Authority shall extend the probationary period or terminate the employee, or, in the case of probation other than initial probation, may place the employee in another open position for which the employee is qualified, as set forth herein. The employee shall be given written notice of the action taken by the Appointing Authority prior to or at the time of the expiration of the probationary period. In the event such notice is not provided, the employee shall be considered to have attained regular status.

4.02 INITIAL PROBATION

An employee required to complete initial probation achieves regular status when probation is satisfactorily completed. If an employee does not satisfactorily complete the probation period, the Appointing Authority shall extend the probation period or terminate the employee.

4.03 PROMOTIONAL PROBATION

An employee required to complete promotional probation achieves regular status when probation is satisfactorily completed. If the employee has previously completed an initial probation, and is subsequently required to complete a promotional probation, the employee is not considered on regular status during promotional probation. If an employee does not satisfactorily complete promotional probation, the Appointing Authority shall extend the probationary period, place the employee in another open position for which the Appointing Authority deems the employee qualified, or terminate the employee if no other position for which the employee is qualified is available.

4.04 OTHER APPLICATIONS OF PROBATION

In addition to hire, rehire, and promotion situations, the Appointing Authority may require a probation period for demotions and voluntary transfers. Reclassifications do not require a probationary period.

RULE 5 – DISMISSALS, DEMOTIONS, AND APPEALABLE DISCIPLINARY ACTIONS

5.01 GENERAL PROVISION

An employee who has attained regular status may not be subjected to an Appealable Disciplinary Action as defined in these rules unless by the Appointing Authority or a designee for just cause and after notice and an opportunity to be heard. An employee with regular status may appeal an Appealable Disciplinary Action, as provided herein. Other discipline not contained within the definition of Appealable Disciplinary Action may be imposed in the regular course of business without a right to notice, opportunity to be heard, or appeal. Records of proceedings under these Rules shall be kept in accordance with the record retention policy of the Arizona Administrative Office of the Courts.

5.02 NOTICE

Notice under Rule 5.01 shall be in the form of a Disciplinary Notice. Notice shall normally be within 30 days of the discovery of the conduct, unless a longer timeframe is provided by statute or the timeframe is extended by the Appointing Authority. Notice shall designate a date and time the employee may meet with the Appointing Authority or designee at a pre-disciplinary hearing. The Disciplinary Notice shall be served on the employee at least 48 hours in advance of the pre-disciplinary hearing. The Disciplinary Notice is considered served on the employee upon personal delivery, three days after mailing it via a trackable method to the employee's last known address, or other written notice for which the employee acknowledges receipt in writing (such as e-mail).

5.03 OPPORTUNITY TO BE HEARD

The opportunity to be heard under Rule 5.01 shall be in the form of a pre-disciplinary hearing. The employee may provide, verbally or in writing or both, any evidence, explanations, circumstances, or reasons why discipline should not be imposed. The employee is not entitled to bring a representative or witnesses to the pre-disciplinary hearing, unless allowed to do so by statute or the Appointing Authority. If a representative is allowed, it shall not be an attorney. The employee may, however, submit statements from other individuals for consideration by the Appointing Authority. The Appointing Authority may request additional information as he or she deems necessary to make an informed decision.

5.04 DISCIPLINARY DECISION AFTER PRE-DISCIPLINARY HEARING

A. CONTENT; TIMING; NOTICE; TIME TO APPEAL

Following the pre-disciplinary hearing, the Appointing Authority shall determine whether to impose discipline and, if so, shall serve the employee and HR Director with a written Disciplinary Decision indicating the action to be taken, and the reasons for taking the action. A decision shall normally be rendered within 15 business days after the completion of the pre-disciplinary hearing. The Disciplinary Decision shall be provided to the employee. The Disciplinary Decision is considered served on the employee upon personal delivery, three days after mailing it via a trackable method to the employee's last known address, or other written notice for which the employee acknowledges receipt in writing (such as e-mail). If the Appointing Authority imposes an Appealable Disciplinary Action in the Disciplinary Decision, the Disciplinary Decision shall state the employee's right to appeal to the appeal panel within ten business days from the receipt of the Disciplinary Decision, as set forth in these Rules.

B. AMENDMENT OR SUPPLEMENT TO DISCIPLINARY DECISION, RESETTING TIME TO APPEAL

If the Appointing Authority amends or supplements the Disciplinary Decision prior to the expiration of the time to appeal, the employee has 10 business days from receipt of the amended or supplemented Disciplinary Decision to appeal. The Appointing Authority may rescind the Disciplinary Decision at any time.

5.05 NON-APPLICABILITY DURING PROBATION

Rule 5.01 does not apply to employees in any probationary period, whether initial, promotional, or otherwise. The Appointing Authority may take disciplinary action at any time during any probationary period.

5.06 RESIGNATIONS

A. Voluntary Resignation: An employee who desires to terminate employment with the Judicial Branch 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 who resigns does not have a right to appeal.

B. Job Abandonment: An employee who is absent for three or more consecutive work days without authorization, regardless of whether the employee has available sick or vacation time or other accrued leave, is automatically considered to have resigned, except where extenuating circumstances are found to have existed. An employee who resigns under these circumstances does not have the right to appeal, but may present a letter to explain extenuating circumstances to the Appointing Authority.

C. Retirement: An employee with regular status who retires under a State retirement plan or system ("State Retirement") is deemed to be separated without prejudice and does not have the right to appeal.

5.07 MEDICAL RELEASE

A. Employees who are unable to perform the essential functions of the job for medical reasons may be released from employment but the release from employment does not indicate any improper conduct on the part of the employee. An employee who is separated through a medical release may be reinstated by the Appointing Authority within one year, but nothing in the Rules shall require reinstatement.

B. An employee terminated through a medical release has no right to appeal under these rules, but may write a letter to the Appointing Authority seeking reinstatement and explaining any extenuating circumstances.

5.08 REDUCTION IN FORCE (RIF)

A. An employee may be separated through a RIF in accordance with the Judicial Branch's RIF policy.

B. Employees may not appeal a RIF.

RULE 6 – APPEALS

6.01 MATTERS WHICH MAY BE APPEALED

A. Employees who have attained regular status may appeal a Disciplinary Decision setting forth an Appealable Disciplinary Action in writing within 10 business days of receipt of the Disciplinary Decision.

B. Employees do not have a right to appeal if the employee: is in any probationary period; resigns; terminates employment by job abandonment; is separated from employment through medical release; or retires. Employees do not have a right to appeal unless expressly granted in the Rules.

6.02 APPEAL

A. TIME TO FILE APPEAL

Every appeal must be filed in writing with the HR Director no later than 10 business days after receiving the Disciplinary Decision. The appeal will be considered filed when received by the office of the HR Director.

B. NOTICE OF A FILED APPEAL

As soon as practicable, but not later than five business days after receiving the appeal, the HR Director shall provide a copy of the appeal to the respondent.

C. WRITTEN APPEAL; HEARING; NOTICE OF HEARING; TIME FOR HEARING; COUNSEL

Appeals are conducted in writing, unless the appeal panel orders a hearing or a hearing is required by statute. Either party may request a hearing, but whether to hold a hearing is within the sole discretion of the appeal panel unless a hearing is required by statute. An employee who does not request a hearing in writing in the appeal waives the opportunity for a hearing, unless required by statute. Any hearing shall be conducted pursuant to Rule 6.06. Parties may represent themselves on appeal or retain legal counsel at their own expense.

D. CONTENT OF APPEAL

The appeal shall state the facts and basis for appeal, and the relief requested. The written appeal shall not exceed 15 pages, plus attachments. The body of the written appeal shall be typed double spaced and shall not exceed 28 lines per page, except for headings, quotations and footnotes which may be single spaced, and shall use a fixed-pitch type size no smaller than ten (10) pitch (10 letters per inch) or proportional font size no smaller than 13 point, including any footnotes.

6.03 ANSWER

A. An answer may be filed in writing with the HR Director not later than 15 business days after receiving the appeal from the HR Director. The answer will be considered filed when received in the office of the HR Director. The respondent is not required to file an answer to the appeal, and may instead rely on the Disciplinary Decision issued after the pre-disciplinary hearing.

B. As soon as practicable, but not later than five business days after receiving the answer, the HR Director shall notify and provide a copy of the answer to the employee and appeal panel.

C. The answer shall comply with the page limit, spacing, and font size requirements set forth for the written appeal in 6.02(D), above.

6.04 REPLY

A. No reply may be filed unless ordered by the appeal panel in its sole discretion. Typically, no reply will be ordered.

B. As soon as practicable, but not later than five business days after receiving the reply, the HR Director shall notify and provide a copy of the reply to the respondent(s) and appeal panel.

C. Unless otherwise ordered by the appeal panel, a reply shall be no more than five pages, with the spacing and font size requirements set forth for the written appeal in 6.02(D), above.

6.05 APPEAL PANEL

A. APPEAL PANEL MEMBERS

The appeal shall be heard by a three-person appeal panel consisting of Presiding Judges, the Associate Presiding Judge, Appointing Authorities, or judges. From time to time, the Presiding Judge shall provide the HR Director a list of individuals who are available to serve on the appeal panel. As soon as practicable, but not later than 15 business days after receiving the appeal, the HR Director shall appoint the appeal panel. An appeal panel will be appointed for each appeal, and may be comprised of different individuals. The Presiding Judge or a designee shall be appointed to the appeal panel, unless the Presiding Judge has a conflict or otherwise recuses. The HR Director may delay the appointment of the appeal panel for a reasonable time, if necessary. The HR Director shall provide the appeal panel with the appeal, answer, and reply, if any.

B. RECUSAL

A person appointed to the appeal panel shall recuse if he or she has a conflict of interest. In the event of a recusal or inability to serve on the appeal panel, the HR Director will appoint a replacement.

6.06 HEARING

If a hearing is required by statute, or the appeal panel otherwise orders a hearing, the HR Director shall appoint a Hearing Officer to conduct the hearing. The Hearing Officer shall set a hearing and notify the parties and the HR Director in writing of the date, time, and place of the hearing. Such notice shall be provided at least five business days before the hearing, unless the parties agree to shorter notice. A hearing, if any, shall commence within 60 business days of the appeal, unless the Hearing Officer extends the time for a hearing. A hearing shall not exceed one business day, unless otherwise ordered by the Hearing Officer or required by statute.

Every hearing shall commence and be conducted as directed by the Hearing Officer or as required by statute. Each hearing shall be private. Parties may represent themselves or be represented by legal counsel. The hearings shall be informal and technical rules of evidence shall not 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.

In all cases assigned to Hearing Officers for hearing, the Hearing Officer shall prepare proposed Findings of Fact and Conclusions of Law. The Hearing Officer shall provide a copy of the Proposed Findings of Fact and Conclusions of Law to the parties and the appeal panel through the Director within ten business days from the last date of the hearing.

6.07 APPEAL PANEL'S DUTIES, AUTHORITY, AND STANDARD OF REVIEW

The appeal panel shall determine whether the Appealable Disciplinary Action was an abuse of discretion. The appeal panel shall render an order under the Rules by affirming, reversing or remanding for consideration in light of certain factors or for further development of the record. The appeal panel may reverse or affirm, in full or in part, the Disciplinary Decision. The appeal panel shall typically issue its order within 15 business days after the matter is fully briefed or the Hearing Officer provides the appeal panel a copy of the Proposed Findings of Fact and Conclusions of Law, whichever is later.

The appeal panel shall have the power to direct the following remedial action: modify discipline, including but not limited to reduce or eliminate a suspension; return an employee to the same classification with or without back pay, except that the appeal panel cannot require the employee be returned to the same assignment; direct the Appointing Authority to institute lesser discipline, and the appeal panel may choose to provide a list of acceptable lesser discipline; or direct the Appointing Authority to propose an alternative discipline option for the appeal panel's review.

The appeal panel has authority to grant or refuse requests for extensions of time, reset deadlines, and take other reasonable action to conduct the appeal set forth in the Rules.

6.08 COMPLIANCE OF APPOINTING AUTHORITY

The findings and decisions of the appeal panel shall be final and are not subject to judicial review. The Appointing Authority shall take necessary measures to comply with the appeal panel's decision within ten business days or as otherwise specified by the appeal panel.

6.09 PROCEEDINGS NOT OPEN TO PUBLIC

Proceedings under these rules, including written proceedings or a hearing, are personnel proceedings and shall be private and not open to the public.

6.10 WITNESS FEES

Employees who attend a hearing shall be paid for their time and reimbursed for mileage, if any. 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 by the appeal panel, fees and mileage may be paid upon completion of a form provided for by the HR Director. If a witness is subpoenaed upon request of the employee or respondent, the fees and mileage shall be paid by the party requesting the witness.

6.11 PROPOSED FINDINGS OF FACT

The appeal panel may request proposed findings of fact if it deems they would be helpful. The appeal panel is not obligated to rule on the proposed findings of fact.

6.12 WITHDRAWAL OF APPEAL

The employee may withdraw an appeal in writing prior to decision by the appeal panel by filing a notice of withdrawal with the appeal panel or the HR Director. The HR Director shall notify the respondent and appeal panel.

RULE 7 – RETURN TO WORK

Prior to extending a job offer to any person who previously separated employment with the Judicial Branch, the Appointing Authority or designee must approve the job offer.

RULE 8 – LEAVE PLAN

Matters related to attendance, holiday, and leave shall be administered in accordance with Judicial Branch policies.

RULE 9 – CODE OF CONDUCT FOR JUDICIAL EMPLOYEES

All employees are required to comply with the Code of Conduct for Judicial Employees, adopted by the Arizona Supreme Court. Violation of the code is grounds for discipline up to and including termination.