

## **RULE 16**

### **TENURE, LAYOFFS AND REDUCTIONS IN RANK, RESIGNATIONS, RETIREMENT, DEMOTIONS, SENIORITY**

#### **16.01 TENURE OF CLASSIFIED EMPLOYEES :**

(a) Every employee who is legally employed in accordance with the provisions of the Civil Service law and these rules and who successfully completes his working test period shall have indefinite tenure of employment in the classified service during meritorious service, except as provided in these rules.

(b) The Sheriff or his staff shall report to the Commission on each appointment in the classified service and on each promotion, reduction, suspension, transfer, separation, reinstatement, or other change in employment on such forms as prescribed by the Harris County Auditor.

#### **16.02 LAYOFFS AND REDUCTIONS IN RANK :**

(a) The appointing power may layoff or reduce an employee when necessary:

1. For reasons of economy or lack of work.
2. Where there are more employees than positions in any class within the department.

(b) Order of layoff or reduction:

1. Employees in the classified service shall be laid off or reduced in rank on the basis of inverse order of seniority.

2. All promotional rank in the classified service, Captain, Lieutenant, Sergeant, and Detective, shall be reduced to the next lower rank until the shortage of positions is adjusted.

3. If seniority is the same, the person lowest on the original eligibility list is the first laid off.

(c) Reinstatement Lists:

1. The names of employees laid off or demoted in accordance with this rule shall be entered on a list in the inverse order of their laying off or reduction of rank.

2. Any new certifications or promotions in the affected class will come from the appropriate reinstatement list, if any, without regard to the current eligibility list until the reinstatement list is depleted.

3. Any employee refusing reinstatement to the classified service or promotion to previous rank shall be dropped from the reinstatement list.

4. Any employee scoring unsatisfactory on his last two performance evaluations shall not be eligible to be placed on a reinstatement list.

5. Any employee refusing to accept reduction in rank during layoff and terminates his employment shall not be eligible for placement upon a reinstatement list.

16.03 **RESIGNATION FROM CLASSIFIED SERVICE** :

(a) Upon the voluntary resignation by an employee from the classified service, the employee shall submit to the Sheriff a formal resignation in writing. The Sheriff shall forward a copy of such resignation to the Commission along with a report of separation of such employee. The receipt of such formal resignation and separation report shall constitute resignation from the Sheriff's Department in good standing.

(b) Upon receipt of the resignation, the Director may conduct such investigation as he/she may deem proper and necessary to ascertain that the resignation was submitted in good faith by the employee. The date of such resignation and the findings of the investigation, if deemed necessary, shall be incorporated in the employee personnel record.

(c) Any form of resignation found to have been filed with the Sheriff without date or with a future date, and that is not intended to be a voluntary resignation to be acted upon at the time of filing shall not be accepted by the Commission as a resignation. Each separation under such circumstances shall be deemed a dismissal and provisions of these rules relating to dismissals shall apply. Any request of the Sheriff for the filing of any form of resignation for possible future action at the option of the Sheriff shall be deemed to constitute prima facie evidence of coercion, in contravention of the purpose of the Civil Service law and these rules.

(d) Whenever resignations within any Bureau or identifiable subdivision of the Department are, in the opinion of the Commission, excessive, it shall be its duty and it shall have the power to investigate the cause of such resignation.

16.04 **RETIREMENTS** :

(a) Any person in the classified service who shall become eligible to retire and who shall be retired or pensioned under the provisions of any applicable retirement laws shall be deemed for the purpose of these rules to have been separated as a member of the Sheriff's Department in good standing.

(b) Any previously classified employee who retired because of disability, and at a date earlier than the specified retirement period, and has recovered to the extent in the said opinion of a physician appointed by the Commission the employee is able to perform the usual and customary duties formerly handled by such employee, the employee may be reinstated as an employee, when an opening occurs. Said employee will not accrue any seniority for the period while on retirement.

16.05 **DEMOTIONS DUE TO INABILITY TO PERFORM DUTIES** :

(a) When an employee can no longer perform the essential duties of his assigned position, he may, upon request of the Sheriff or upon his own initiative, be transferred to a vacant position, the duties of which he is able to perform, in a class carrying a lower rate of pay.

(b) Complete facts regarding such a change shall be reported to the Commission. The change shall not become effective until approved by the Commission. The employee shall first be served with a written notice of any demotion of this category and shall be given opportunity to make and file explanation and have the right of appeal to the Commission in the manner as set forth in the files for appeals from demotion or dismissal if such action was initiated by the office of the Sheriff.

16.06 **INVOLUNTARY DEMOTIONS DUE TO ORDER OF COMMISSION OR COURT** :

In the event that an order of the Commission or a court of competent jurisdiction results in the forced or involuntary demotion of an employee, the employee so demoted shall be placed on a reinstatement list as prescribed under Rule 16.02, Section (c).

16.07 **VOLUNTARY DEMOTION** :

(a) An employee promoted to the rank of detective, sergeant, lieutenant, or captain may request that he/she be voluntarily demoted and returned to the rank of from which he/she was last promoted. Any such request for a voluntary demotion must be made in writing to the Sheriff, with a copy to the employee's bureau commander and the Commission, and must be received by the Sheriff before the end of the employee's promotional probationary period for the rank from which the demotion is sought.

(b) Upon receipt of the request for a voluntary demotion, the Director may make inquiry as he/she deems appropriate to ensure that the request was made voluntarily and in a timely manner. Unless the Director determines that the request was not made voluntarily or in a timely manner, the Commission will approve the voluntary demotion and order that it be effected forthwith.

(c) In the event that a request for a voluntary demotion is made after the employee's promotional probationary period has ended, such request may be approved by the Commission, but, if approved, the Commission will order the employee demoted to the rank of deputy and not the rank from which he/she was last promoted.

16.08 **SENIORITY** :

(a) Seniority shall be calculated from:

1. Date of hiring for entry-level positions.
2. Date of promotions for Detective, Sergeant, Lieutenant and Captain.

(b) Seniority in rank is not lost due to a promotion to next higher rank.