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2015 JUN 30 PM 1:52

WEBB COUNTY, TEXAS

WEBB COUNTY CIVIL SERVICE COMMISSION

RULES AND REGULATIONS

Adopted September 8, 2008

With Revisions through June 26, 2015

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1. ORGANIZATION OF THE CIVIL SERVICE COMMISSION

The Rules and Regulations of the Webb County Civil Service Commission ("the Civil Service Rules and Regulations") as set forth herein below are adopted by the Webb County Civil Service Commission ("the Commission") and may be amended from time to time as allowed by these rules and by applicable law. The Commission was established by the Webb County Commissioners Court on September 8, 2008 pursuant to Chapter 158 of the Texas Local Government Code for the purpose of developing and enforcing rules regarding the selection and employment of Webb County employees. As stated therein, the Commission has the responsibility to make, publish, and enforce rules relating to:

A. the definition of a County employee;

B. the selection and classification of County employees;

C. competitive examination;

D. promotions, seniority, and tenure;

E. layoffs and dismissals;

F. disciplinary action;

G. grievance procedures; and

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

The Commissioners Court appoints the three members of the Civil Service Commission, designating one member to serve as Chair. Each member of the Commission holds office for a term of two years and until his/her successor is appointed. A vacancy on the Commission must be filled by appointment of the Commissioners Court for the unexpired term of the member whose position has been vacated. If a Civil Service Commissioner is absent from three consecutive meetings without the approval of the remaining members, then the absent member is automatically deemed to have submitted his/her resignation, and the position will be declared vacant. The remaining members shall communicate to Commissioners Court a request that such vacancy be filled.

The Commission shall meet on a regular basis as established by the Commission and at such other times as shall be necessary to conduct the Commission's business. Meetings are open to the public and are subject to the provisions of the Texas Open Meetings Act. All Civil Service Commissioners must be present to constitute a quorum for administrative matters, grievances, or appeals. Minutes of all meetings shall be taken by staff assigned to the Commission by Human Resources.

The Human Resources Director shall be an employee of the Administrative Services Department and shall also serve as the Civil Service Coordinator. The Human Resource

Director will provide staff support to the Commission as required for meeting, grievances, and daily operations of the Commission. The Human Resources Director and his/her staff will maintain records of all County employees holding civil service positions including the following information: name, job title, slot number, budgeted salary, actual salary, hire date, personnel or disciplinary actions, records of grievances, and documentation of educational or other achievement attained by training, experience, or otherwise.

Communication to and from the commission shall be in written form and records of such communications shall be maintained by Commission staff.

As used in these rules, "working day" shall be any day other than a Saturday, Sunday, County holiday as adopted by Commissioners Court, or a day County offices are closed by order of the Commissioners Court or County Judge pursuant to the Webb County Personnel Policies Manual.

2. ADOPTION, APPLICATION, AND MODIFICATION OF RULES

2.1 CIVIL SERVICE RULES AND REGULATIONS

The Civil Service Rules and Regulations apply to employees of all Webb County offices and departments that are not specifically excluded by statute or by the Commission. As used herein, the term "department head" shall also refer to an elected official who has one or more employees subject to civil service. The Civil Service Rules and Regulations shall apply from the time of its adoption in all instances in which the Commission has jurisdiction. Any changes, deletions or additions to the Civil Service Rules and Regulations may be made by the Commission in accordance with its rule-changing provisions. The Commission is responsible for interpreting its rules consistent with applicable law.

The Civil Service Rules and Regulations will be available to all employees on the Webb County website, and a printed copy of the Rules and Regulations will be maintained by the Administrative Services Department.

2.2 CHANGE OF RULES

These rules may be amended, repealed or supplemented by the Commission at any time, and new rules may be adopted. Notice of such action shall be issued 20 calendar days prior to any action by the Commission to amend, repeal, or supplement any of these rules or adopt new rules. The notice shall contain the proposed changes or the proposed new rules and the date and the place at which the Commission will hold a public hearing on such proposals Copies of the notice and of the proposed changes or new rules shall be posted online, in the Administrative Services Department, and elsewhere as the Commission deems advisable. Copies of the notice and proposed changes or new rules shall be forwarded to County offices or departments, and made available to the public for inspection. The Commission, after public hearing, shall take action on the proposed changes or new rules and such changes or new

rules may be adopted by a majority vote. All rules and amendments shall become effective ten (10) working days following approval by the Commission.

3. POSITIONS SUBJECT TO CIVIL SERVICE

3.1 APPLICABILITY OF CIVIL SERVICE RULES AND REGULATIONS

The rules and regulations in this Chapter are established pursuant to Chapter 158 of the Texas Local Government Code and apply to County employees who are designated as having civil service status by state law Employees are generally covered by civil service unless excluded by law or by civil service rule, as described below. Deputy Constables and Deputy Sheriffs are covered by civil service, unless otherwise provided herein. The Human Resources Director shall maintain a list or database of all County jobs, and designate that each such position is or is not a civil service position.

New job descriptions or modifications to existing job descriptions must be submitted by the department to Human Resources and must be certified by the Commission before they are put into effect. Each Department Head, elected or appointed, under the Wage and Classification Plan, seeking changes to titles and/or significant job duties for positions approved and budgeted by the Commissioners Court, requires Commissioners Court approval prior to item being presented to the Civil Service Commission.

Job descriptions and qualifications must be reasonably related to the job title and to the nature and duties of the job. Qualifications may not be tailored for a particular person, thereby excluding other individuals who would otherwise be able to apply fora position. Nor may qualifications for a position be established to create a larger job pool and thereby include person(s) who would not otherwise be considered for that position. An employee who occupies a particular slot will not be disqualified or otherwise made ineligible for that slot because a change to the job description has been certified by the Civil Service Commission.

3.2 POSITIONS EXCLUDED BY LAW

The following employees are excluded from civil service, pursuant to Chapter 158 of the Texas Local Government Code, other statute, case law, or legal authority:

1. Officials who are elected or appointed under the constitution
2. Employees of the County Attorney's Office
3. Employees of the District Attorney's Office
4. The official shorthand reporter of a court
5. Court Coordinators of a District Court, County Court at Law, or Local Administrative Judge
6. Employees of the Webb County Auditor's Department

7. Employees of the Juvenile Probation Department (Youth Village)

8. Temporary employees

9. Head Start

3.3 POSITIONS EXCLUDED FROM CIVIL SERVICE BY RULE

Any position not exempt by law will normally be subject to civil service. However, the Civil Service Commission has determined that certain positions, as set forth in Attachment "A" to these rules, should be excluded from civil service coverage. In addition to these positions, a department may seek to declare a position "sensitive" so that it will be excluded from civil service coverage. The department must present to the Civil Service Commission a written request that the position be declared sensitive along with written justification based upon the criteria outlined below. Upon approval by the Civil Service Commission, the position will be excluded from civil service coverage.

Criteria for Declaring a Position Sensitive

Each of the following criteria shall be considered in determining whether a position should be declared sensitive and thereby excluded from civil service:

1. The position reports directly to a board, elected or appointed official, or department head.

2. The position is in the nature of a chief deputy to an elected official or a department head.

3. The position acts autonomously and operates on a regular basis with a minimum of supervision, based on direction from a board, elected or appointed official, or department head.

4. The position is responsible for a major division or section within a department.

5. It is vital that the person holding the position exercise discretion in decision-making on a regular and consistent basis.

6. The Board, elected/appointed official or department head holds this position to a higher level of trust and confidentiality because of the involvement in various aspects of his/her administration, including but not limited to policy development, strategic vision, long-range planning, and delivery of services to the citizens of Webb County.

3.4 CHANGE IN CIVIL SERVICE STATUS

If a civil service employee voluntarily changes positions and accepts a non-covered or excluded position, the employee does not retain civil service coverage in the new position.

If a current employee with civil service status voluntarily remains in a position that is changed from covered to excluded, that employee retains civil service status for the period of time that employee occupies that position.

4. APPLICABILITY OF OTHER RULES AND POLICIES

4.1 APPLICABILITY OF WEBB COUNTY PERSONNEL POLICIES MANUAL

In addition to these Rules, the Webb County Personnel Policies Manual as adopted and amended by the Commissioners Court, Juvenile Board, and/or other Board or Elected Official is applicable to the extent not in conflict with these Rules.

4.2 DEPARTMENTAL POLICIES AND PROCEDURES

Any County Department that wishes to adopt policies and procedures specific to that Department relating to personnel issues must prepare and submit the proposed department policies to the Commission. The Commission will review the proposed policies to ensure that they do not conflict with Commission Rules and Regulations. Such policies will be effective only after approval by the Commission during open session in accordance with the Texas Open Meetings Act. Any amendments to departmental rules must be likewise approved. Any departmental policies in effect prior to the effective date of these Civil Service Rules are void and shall be of no effect unless and until approved by the Commission in the manner described above.

After the departmental rules are approved by the Commission, the department shall distribute copies to each of its employees, and shall also be provided to any new employees. The departmental rules shall contain a provision stating the violation of policies may be cause for appropriate disciplinary action.

5. HIRING PROCEDURES

5.1 HIRING

When a department has a vacancy, it may choose to recruit internally within the Webb County department, or to recruit outside of the department (external to Webb County). If the position is to be filled through an internal transfer, the vacancy shall be posted within that department for three (3) days. Vacancies to be filled from outside the department shall be posted in accordance with the procedures set forth below.

The hiring department will need to submit requisition from NEOGOV "On-line Hiring System". The requisition shall include an attached job description certified by the "Civil Service Commission" if the position is covered by civil service. The requisition shall include desired start date, working title, vacancies, department, hiring managers, commissioner's court approval and approval date (if applicable), closing date and pay rate. A department will not be allowed to fill a slot unless it has filed a job description for the position with Human Resources, and the job description has been certified by the Civil Service Commission. The position must be posted for five (5) days.

The selected applicant must meet all of the requirements and qualifications for the position. Human Resources will verify that applicants meet the required qualifications and will be the final arbiter in the nature of documentation and other proof. If a position requires a degree, such degree must have been earned from an accredited institution by one of the regional accrediting agencies. No mail order degree will be accepted.

5.2 INTERNAL POSTING PROCEDURES

A vacant position may be posted internally within the county. A Neogov requisition must be created by the hiring department and forwarded to Human Resources for posting.

A) ***Posting within the hiring Department.***

The hiring department will need to submit a requisition through Neogov. The job position will be posted within the hiring department for three (3) working days. The position must be posted in an area clearly visible to the employees within the department. Paper application will need to be submitted to hiring department.

B) ***Posting for Webb County employees***

The hiring department will need to submit a requisition through Neogov On-line Hiring System. The job posting will be posted for five (5) calendar days. Any employee who is selected to fill a position must meet the qualifications for that position.

If a department proposes to fill one or more vacant positions from within the department, thereby creating other vacancies, the department may internally post all positions that would arise from the process by creating a Neogov requisition. This procedure may be used when a department wishes to promote employees. This procedure may be used in lieu of posting each position serially.

5.3 EXTERNAL POSTING PROCEDURES

When a department wishes to recruit applicants from outside the County, a

Neogov requisition must be completed by the department and forwarded to Human Resources for posting. The vacant position will be posted for a minimum of five (5) calendar days by the department seeking to fill the vacancy. If requested by the department, the job vacancy may be posted for a longer period of time so that a larger pool of qualified applicants may be assembled. This extended period should not exceed thirty (30) calendar days.

Once the posting has closed, all applications will be screened for minimum qualifications, and a resulting list of eligible applicants and their applications will be forwarded to the hiring department. Human Resources shall not be permitted to forward to the department any applications that have been screened out for failure to meet the minimum qualifications of the position.

Any required testing identified on the position description will be administered by Human Resources. Once all applicants are screened and referred to the hiring department, they will then notify Human Resources of their top applicants. Those top applicants will be given the typing test if required by the position. If the applicant does not pass the typing test, the hiring department will send Human Resources the next applicant to take the exam. The typing test will be valid for 1 year from the date administered.

An applicant for any position must provide a high school diploma, GED, college transcript from an accredited institution, and other documentation of achievement prior to hiring. For any position that requires special training, licensing, or certification, the applicant must also provide satisfactory evidence of completion of any such requirements prior to hiring.

5.4 SELECTION

The department seeking to fill a vacancy will use a competitive process to select the candidate who is best suited to the position from among the candidates that Human Resources has screened for qualifications. If the department is not satisfied with the pool of applicants assembled by Human Resources, it shall notify Human Resources and the process will be reinitiated. Hiring decisions will not be made based on race, color, religion, national origin, age, military status, disability, or gender except where gender is a bona fide occupational requirement. Webb County is an equal opportunity employer and complies with the Americans with Disabilities Act. At the time of hiring, the new employee will be provided with a copy of the job description for his/her position. No offer will be made to the candidate until full pre-employment (i.e. Drug/Alcohol, Criminal background and MVR) has been completed

5.5 DRUG AND ALCOHOL SCREENING

After an offer of employment has been made to an applicant but before he/she may be hired and begin working, he/she must submit to a drug and alcohol screening in accordance with the Webb County Policy for Drug, Alcohol, and other Prohibited Substances. A positive test for drug or alcohol use disqualifies a candidate from County

employment. The Webb County vendor will advise Human Resources of all test results administered. Human Resources can relay testing results solely to the applicant. Any employee who leaves County employment and returns after 90 days must submit to a drug and alcohol screening before he/she may return to duty.

5.6 PHYSICAL AGILITY REQUIREMENTS

For a position that requires above average physical agility to perform an essential job function, the applicant to whom an offer has been extended to, must complete a physical agility test prior to being hired. Any employee who leaves County employment, and returns in a period of six (6) months or more, must submit to a physical agility test if required by the position. The test must be reasonably related to the requirements of the essential job function. The physical agility requirements must be observed in accordance with the Americans with Disabilities Act.

5.7 CRIMINAL BACKGROUND CHECK

Before an applicant is hired and begins work, a criminal background check will be conducted to ensure that the person is not disqualified from County employment.

5.8 DISQUALIFICATION

An applicant or employee shall be disqualified from employment with Webb County for the following reasons:

A. He/she has falsified, misrepresented, or omitted material facts or information on his/her job application for employment or documents offered in support of the application for employment.

B. He/she has falsified, misrepresented his/her qualification or other material facts or information during his/her job interview.

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

D. He/she has practiced or attempted to practice any deception or fraud in his/her application or examination, or in securing his/her eligibility or appointment.

E. He/she has been disqualified within the past three years from the same or

any other County examination or has been removed from a position under circumstances which, in the opinion of the Department Head, renders him/her equally unfit for the position for which he/she applies.

F. He/she has indicated through words or actions an inability or unwillingness to attend work on a regular basis or on a schedule established by the department.

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

In addition to the foregoing, an applicant will be ineligible for any given position under the following circumstances:

A. He/she has inappropriately used or attempted to use any personal or political influences to further eligibility or appointment to that position.

B. He/she has been unable to be contacted after a reasonable effort (as may be determined by the hiring department), has failed to appear for an interview, or has declined an interview or job offer for that position.

Conduct described in this subsection constitutes just cause for termination of employment.

6. PROBATIONARY PERIOD FOR NEWLY HIRED AND RETURNING EMPLOYEES

All new and returning employees (those who have separated from County employment for more than thirty days) are placed on a probationary status for six (6) months. Time spent as a temporary or part-time employee does not count toward the six-month probationary period. During the probationary period, the employee serves on an "at-will" basis and may be terminated at any time for any reason that is not unlawful. Termination of employment during the probationary period cannot be the basis for a grievance or an appeal of any sort.

An employee who is promoted during the probationary period is continued on probation for the remainder of the six (6) month period. The probationary period is not restarted by virtue of the promotion.

An employee who voluntarily transfers from one department to another must serve a full six (6) month probationary period in the new department. Involuntary transfers do not cause the probationary period to restart. After successful completion of the probationary period, the employee is classified as a regular, full-time employee.

7. NEPOTISM

The practice of nepotism in hiring personnel is forbidden Nepotism laws contained in the Texas Government Code §§573.041 and 573.044 shall not be violated. Additionally,

a. No person who is related within the second degree of affinity (marriage) or within the third degree of consanguinity (blood) to any member of Commissioners Court may be hired by Commissioners Court, by any member of Commissioners Court, or by a department that is under the direct authority of Commissioners Court;

b. No person who is related within the second degree of affinity (marriage) or within the third degree of consanguinity (blood) to any department head may be hired by that department head; and

c. No person who is related within the second degree of affinity (marriage) or within the third degree of consanguinity (blood) to another employee may be supervised by that employee.

In the event that two current County employees become related in a manner prohibited by this section or such a situation arises in some other manner, the two employees shall be given 120 days to eliminate the violation. If the employees do not resolve the violation within that Period of time, the employee who has less seniority with the County will be terminated.

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

8. POSITION WITHIN DEPARTMENT

8.1 CHAIN OF SUPERVISION

Any change to an established chain of supervision in any department with civil service positions must be committed to writing and submitted to the Human Resources Director.

8.2 REASSIGNMENT

The involuntary reassignment of an employee to a position at the same or higher pay level within the same department is not grievable. The employee should be given two (2) days' notice in writing of the reassignment, along with the reasons for it.

9. PROMOTIONS, DEMOTIONS, AND LATERAL TRANSFERS

9.1 PROMOTIONS

Definition

A promotion is the movement of an employee to a position with higher salary and which usually requires greater skill and responsibility. It is the County's policy to give qualified employees advancement opportunities whenever possible. Therefore, most vacancies should be posted for three (3) calendar days internally as described hereinabove. In all cases, promoted employees must meet or exceed the basic qualifications for the position as stated in the completed requisition and the job description for the position. If an employee is to be promoted from within the department, the department must comply with the posting requirements of §5.1.

Proof of Eligibility

Any employee wishing to be promoted to a position requiring a specific level of education, degree, license and/or certification must produce documentation verifying that he/she meets those requirements. Documentation is subject to verification by Human Resources. An employee applying for a position that requires specific physical agility or abilities as part of an essential job function must complete a physical agility test prior to being promoted. The test must be reasonably related to the requirements of the essential job function. The physical agility requirements must be observed in accordance with the Americans with Disabilities Act. Failure to produce the required documentation or to pass the physical agility test will be grounds for disqualification.

Evaluation Period

Promoted employees are subject to an evaluation period during which they must demonstrate the ability to successfully perform the new job. An employee who, in the opinion of the department head, does not perform satisfactorily may request demotion to his/her previous position or an equivalent position if an opening is available. In all such cases, the receiving department head must approve the transfer by submitting a completed payroll change request form to Human Resources. If such a transfer is not available, dismissal may result. In that case, the department head must identify and document the lack of performance or inability to perform in the position to which the employee had been promoted.

Internal Promotions

Employees promoted within the same department will be subject to an evaluation period of thirty (30) calendar days unless the department has a formal training program that exceeds thirty (30) calendar days. In that case the evaluation period shall end when the formal training period ends. In no event shall the evaluation period exceed fourteen (14) weeks except in the Sheriff's Department where the training period may last up to (6) months.

Employees in the Sheriff's Department may be demoted but not discharged as a result of the evaluation.

9.2 DEMOTIONS

Definition

A demotion is the involuntary reassignment of an employee to a position with lower pay and, normally, less responsibility. An employee may be demoted when a prior reprimand or suspension does not produce satisfactory results in correcting behavior or performance. An employee may also be demoted when a department determines that the violation of a rule or policy is serious enough to warrant a demotion without the prior use of a less severe form of discipline. Finally, an employee may be demoted when a department determines that the employee cannot or will not adequately perform the duties of his/her position.

Reasons for Demotion

Demotions may be made for the purpose of voluntary assumption of a less responsible position, as a disciplinary measure because of unsatisfactory performance in a higher position, or as a result of elimination of a higher position.

Wages

An employee who is demoted will be placed in an appropriate slot with a salary within the budgeted amount for that slot.

9.3 LATERAL TRANSFERS

An employee who transfers to a generally equivalent position with a similar rate of pay will have the same evaluation period as if he/she had been promoted within the department and a probationary period of (30) thirty days. Outside of the department probationary period is (60) sixty days.

10. INTERRUPTION OF EMPLOYMENT AND REINSTATEMENT

10.1 REINSTATEMENT

Definition

Reinstatement is:

A. the re-employment of a full-time regular employee who was terminated by a department head;

B. the re-employment in the same position of an employee who voluntarily left his/her employment; or

C. the rescission or reversal of the demotion of a full-time, regular employee by

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

10.2 INTERRUPTION OF EMPLOYMENT

Layoff

An employee may be separated for lack of work or funds. In deciding who will be separated from employment as a result of a reduction in force, the Department will consider, but is not limited to, the following factors:

1. the employees' length of service with the County;
2. the performance record of each employee; and
3. qualifications of the employee for remaining open positions.

For two (2) years after any layoff by the County, all regular, non-probationary employees who were laid off shall be given the opportunity to fill vacancies in the department of the same hiring authority equal to or similar to the positions from which they were laid off, before any outside candidates applying for the same or similar position can be hired.

Employees in positions that traditionally do not work year-round, such as certain Head Start employee, are excluded from this section and should expect their seasonal lay-off.

An employee who is laid off because of a loss of funding including the termination of a grant that paid all or part of his/her salary cannot displace another employee for any reason, including, but not limited to, seniority.

Voluntary Separation

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

Candidates for Public Office

Any regular employee who resigns from County employment to become a candidate for or accept the nomination for a public office is eligible for reinstatement following the election. Eligibility, however, will be contingent upon acceptance of the applicant into a vacant position by a hiring authority. The Department will not be required to hold open any slot for an employee who resigns to run for office. In such a reinstatement, the applicant is not required to go through the probationary period if he/she returns to the same position but otherwise will treated as a new employee. If he/she is hired for a different position, he/she will be required to go through a probationary period.

Benefit and Salary Restoration for Reinstated Employees

A reinstated employee is eligible for the restoration of benefits to the extent he/she has not previously received compensation for benefits and wages; provided, however, that the salary of an employee who is re-employed by virtue of an order of the Commission or a District Court but whose re-employment is to a position with a lower salary than that from which he/she was discharged will be adjusted so that it does not exceed the maximum of the salary for the position to which he/she is reinstated. Further, any back pay awarded an employee who is reinstated by order of the Commission will be paid at the salary level of the position from which the employee was discharged or demoted and will be in an amount equal to all or any part of the pay, allowances, or differentials, as applicable, which the employee normally would have earned or received during the period if the personnel action had not occurred. In all cases, a deduction from back pay will be made or any amounts the employee received in unemployment compensation during the time he/she was not being paid by the County.

Waiver of Probationary Period for Reinstated Employees

Reinstated employees are not subject to a probationary period.

10.3 RE- EMPLOYMENT

Former employees who are re-employed are treated the same as other applicants.

10.4 TRANSFERS

The employee must go to Human Resources for a Motor Vehicle Record (MVR) check. After results have been obtained by Human Resources, the hiring department will be notified if the employee is eligible. Thereafter, the hiring department must fill and submit a Personnel Worksheet to Human Resources.

10.5 RESIGNATION

An employee who desires to leave the County in good standing must file with the hiring authority a written resignation giving at least two weeks' notice of his/her intention to leave, unless for good cause, and the hiring authority consents to the employee leaving sooner. The employee must also file a copy of the written resignation with Human Resources. Employees who leave without following these procedures will have that fact noted in their employment record.

11. REASONS FOR DISCIPLINARY ACTION

In addition to violations of departmental policies and the conduct violations or reasons for disciplinary action set out in the Webb County Personnel Policies Manual, a department may, at its discretion, take disciplinary action against an employee who has committed, participated in, or received a benefit, including but not limited to, any of the following acts or omissions: This is not an exhaustive list.

11.1 Offenses related to Leave

1. Excessive absences, such as taking more time off than the paid leave specified in the Webb County Personnel Policies Manual unless that leave is permitted by federal or state law.

2. Excessive tardiness. Absent a departmental policy to the contrary, an employee who is more than fifteen (15) minutes late is considered to be tardy. Excessive tardiness is being tardy more than three (3) times in any thirty day period.

3. Failure to provide notice of absence.

4. Misuse of leave.

5. Unauthorized absence — absence from duty that is not authorized or for which a request for leave has been denied.

6. Exhaustion of leave in excess of the allowable maximum period authorized by federal, state, county or local laws and rules.

7. Falsification of time sheets or payroll records.

8. Accepting wages for time not actually worked.

9. Clocking in or out for another employee.

10. Arranging for someone to clock in or out for an employee.

11.2 Offenses related to Job Performance

11. Insubordination – unwillingness or refusal to follow orders from a supervisor or higher level of authority.

12. Failure to perform job duties.

13. Failure to meet productivity goals or needs of the department.

14. Poor job performance.

15. Failure to accept a transfer, either lateral or to a non-civil service position.

16. Failure to report to different duty location as required by a supervisor or department head.

17. Failing to accept a new assignment or failure to perform the duties of that assignment.

18. Dishonesty — behavior characterized by a lack of truth, honesty, or trustworthiness.

19. Conduct or actions that seriously impair the employee's job effectiveness.

11.3 Offenses related to Job Qualifications

20. Fraud or misrepresentation regarding qualifications or references during the selection process discovered after employment. If the employee is not qualified or not suitable for the position, the Commission may direct the removal of the employee on the basis of intentional fraud or misrepresentation.

21. Failure to obtain and/or maintain any position qualifications, license or certifications required by the employee's position description.

22. Failure to satisfactorily complete, obtain or maintain the required physical and/or psychological fitness for duty tests.

23. Failure to submit requested documentation to Human Resources concerning a medical condition of the employee which may present a contradiction to continued employment.

24. Misconduct in the Workplace

25. Violation of job safety rules or regulations.

26. Fighting, bullying, or other harmful behavior otherwise disrupting relations between employees.

27. Endangering the safety of others through negligent or willful acts including, but not limited to horseplay, misuse of County motor vehicles, etc.

28. Sabotage.

29. Physical or verbal abuse of fellow employees, supervisors, subordinates, or the public.

30. Use of foul or abusive language in the workplace.

31. Discourtesy to the public.

32. Sexual harassment.

33. Wearing revealing, distracting, inappropriate attire to the workplace of the employee.

34. Sexual activity in the workplace and any inappropriate displays of affection in the workplace

35. Immoral conduct or indecency.

36. Sleeping on the job.

37. Being in possession and/or under the influence of intoxicating beverages or substances or illegal, controlled substances while on duty.

38. Violation of any statute, Civil Service Rule or Regulation, or departmental policy.

39. Violation of any duly adopted County policy such as the Policy for Drug, Alcohol, and Other Prohibited Substances; the Motor Vehicle Use Policy, and the Computer Use Policy.

40. Failure to report an on-the-job injury or illness immediately or promptly thereafter (in the event it cannot be reported immediately).

41. Knowingly creating or submitting false and/or slanderous reports and/or gossip regarding fellow employees, supervisors, subordinates, or the public.

42. Conduct which is detrimental to or has an adverse effect on the department or the County.

43. Solicitation or acceptance, directly or indirectly, of any gift, favor, entertainment, loan or other thing which has monetary value in exchange for some action or forbearance by the employee in the employee's official duties for the County.

44. Accepting gifts from contractors, vendors or other persons who are employed by persons/entities who are dealing with or attempting to deal with the County. This rule does not apply to promotional or other items of little pecuniary value.

45. Theft.

45. Misusing or allowing the misuse of County property, directly or indirectly.

46. Use of County property, time, equipment, material or supplies for personal gain, for political purposes, or for other activities not related to County business.

47. Release of confidential information or misuse of information obtained through employment with the County.

48. Allowing the use of a County vehicle or other property by a non-County employee except in cases of emergency or for repairs.

49. Gambling or betting while on County time.

50. Forcing or coercing co-workers or subordinates to donate to an office fund or to a collection.

51. Failure to provide the employee's department with current contact information such as home address and telephone number.

11.4 Conduct that Affects the County

52. Outside employment that conflicts with the employee's County employment.

53. Failure to notify the department head of any outside employment.

54. Performing outside employment on County time.

55. Use of County sick leave to allow the employee to engage in outside employment.

57. Receipt of additional compensation from any source other than the County for work performed for the County.

58. Having any financial interest that would conflict with or influence the performance of duties for the County.

59. Any activity that would give the appearance of impropriety to the manner in which County business is conducted.

60. Conviction of a crime of moral turpitude as described in these rules. A crime of "moral turpitude" is one that involves dishonesty, fraud, deceit, misrepresentation, deliberate violence, or that reflects adversely on a person's honesty, trustworthiness, or fitness to act as a County employee.

61. Conviction of any felony or a Class A or B misdemeanor that reasonably could be expected to call the employee's trustworthiness into question.

62. Violating any rules of professional conduct applicable to a particular employee.

12. ANNUAL PERFORMANCE EVALUATIONS

Departments shall conduct annual performance evaluations in May of each year for each civil service employee. The performance evaluations shall be used to assist the employees in improving their performance and shall be conducted using a form provided by Human Resources.

13. TYPES OF DISCIPLINE

13.1 PROGRESSIVE DISCIPLINE

In order to allow employees the opportunity to correct infractions of the rules and regulations, a policy of progressive discipline will be applied to civil service employees to permit those who violate policies or who exhibit unsatisfactory job performance an opportunity to comply with department requirements. Where practical as when in the best interest of the County, as reasonably determined by the department head, progressive discipline will be used. However, certain situations require the immediate use of more severe disciplinary action, and the use of progressive sanctions may be inappropriate.

Webb County employees are expected to conduct themselves responsibly and with propriety in their work. They are further expected to abide by all policies and regulations of the County and of their individual departments. Any departmental policies should be clear and reasonable. Departments should clearly communicate their performance expectations for their employees. Any violations of a policy or any failure to meet performance expectations should be investigated before disciplinary action is taken. Disciplinary action should be taken as promptly as possible under the circumstances and it should be consistently applied.

No disciplinary action may be taken against an employee on the basis of race, color, sex, National origin, age, disability, religion, political affiliation, political association, or for any other discriminatory reason. Except for dismissals during the probationary period, all suspensions, demotions, and terminations must be in accordance with Chapter 11 ("Reasons for Disciplinary Action") and this Chapter 13 ("Forms of Discipline"). Civil Service employees are not subject to at-will employment.

Levels of Discipline

Each department has the authority and responsibility to take disciplinary action against an employee for misconduct or for poor work performance. The levels of disciplinary action are as follows:

1. Verbal Counseling
2. Written Reprimand
3. Suspension
4. Demotion
5. Termination

In determining the level of discipline to impose, the department should consider factors relevant to the situation at hand including, but not limited to, the following:

1. The nature and seriousness of the offense;
2. The level of performance of the employee in his/her job duties;
3. The position the employee holds;
4. The employee's employment history, including any previously imposed disciplinary actions which occurred within the previous 24 months as well as any suspensions or demotions that occurred within the previous 36 months.
5. Other similar disciplinary actions within the same department; and

6. The usefulness of progressive discipline given the particular circumstances of the case.

At the discretion of the department head, an employee may be placed on a three (3) day paid suspension to allow for the investigation of an allegation or event.

Resignation in Lieu of Discipline

An employee who faces disciplinary action may voluntarily resign prior to the issuance of a disciplinary action. Resignation shall not be forced upon the employee by the department. If an employee chooses to resign, he/she may submit his/her resignation in writing to his/her department. Resignation will not preclude Webb County from pursuing criminal prosecution or civil remedies in the event of wrongdoing by an employee who resigns.

Verbal Counseling

Verbal counseling is the most common method of directing an employee in performing his/her duties. Verbal counseling may also be used to remind an employee of how his/her duties are to be performed or to correct an employee's minor misconduct, error, or omission. Each such verbal counseling must be noted in the employee's personnel file including the date and content of the counseling. Verbal counseling may be done in a one-to-one basis. Employee has the right to submit a written rebuttal.

Written Reprimand

A written reprimand must state on its face that it is a "written reprimand." It must advise the employee of the misconduct, act, omission, or failure to perform duties that gave rise to the written reprimand. It also shall advise the employee what corrective action must be taken and that further, more severe, disciplinary action will be assessed if that corrective action is not taken. The employee must sign the written reprimand to acknowledge its receipt, and a copy will be placed in the employee's personnel file.

Suspension

A suspension is the temporary release from duty of an employee for up to thirty (30) calendar days without pay. A suspension is used when a prior reprimand does not produce satisfactory results in correcting behavior, or when the department determines that a violation of a rule or policy is serious enough to warrant a suspension without prior use of a less severe form of discipline.

Demotion

A demotion is the involuntary reassignment of an employee to a position with lower pay and, normally, less responsibility. An employee may be demoted when a prior reprimand or suspension does not produce satisfactory results in correcting behavior or performance. An

employee may also be demoted when a department determines that the violation of a rule or policy is serious enough to warrant a demotion without the prior use of a less severe form of discipline. Finally, an employee may be demoted when a department determines that the employee cannot or will not adequately perform the duties of his/her position.

Termination

Termination is the involuntary discharge of an employee. Discharge is appropriate when a prior reprimand, suspension, or demotion does not produce satisfactory results in correcting behavior or performance, or when the department determines that a violation of a rule or policy is serious enough to warrant a termination without prior use of less severe discipline.

Reassignment in Lieu of Disciplinary Action

At the discretion of the department head, an employee may be reassigned in lieu of disciplinary action. Such reassignment would be appropriate in the event of a personality conflict or other situation that may be remedied by reassigning the employee to another department or to another section within the same department. If the department head proposes to transfer the employee to another department, the transfer must be approved in writing by the receiving department.

13.2 DISCIPLINARY ACTION WITHIN 120 DAYS

A disciplinary action cannot be taken against an employee for a non-criminal violation that occurred over 120 working days prior to the serving of the Notice of Proposed Disciplinary Action or a Written Reprimand unless it can be shown that the offensive conduct or omission was actively concealed. Notwithstanding the foregoing, disciplinary action can be taken at any time for criminal activity or for conduct that could expose the County to liability under a State or Federal law or regulation.

14. DISCIPLINARY ACTION

14.1 NOTICE OF PROPOSED DISCIPLINARY ACTION AND RESPONSE

Prior to suspending, demoting, or terminating an employee, the department shall provide the employee with a notice of the proposed disciplinary action and provide a reasonable opportunity for the employee to respond in writing. The department should review and evaluate the evidence or circumstances that support the employee's position before the proposed disciplinary action takes place. In appropriate cases where a department issues a Notice of Proposed Disciplinary Action to terminate the employee, the department may send the employee home with pay until a decision is made on the disciplinary action. In these cases, a decision must be made no later than five (5) working days after the Notice of Proposed Disciplinary Action is issued.

Notice of Proposed Disciplinary Action

The department shall prepare a Notice of Proposed Disciplinary Action that includes the following information:

1. The specific rules or policies that have been violated.
2. The specific details of the violation, including the names of witnesses, dates, and times.
3. A statement that the action is proposed and not yet a final decision.
4. A statement that the employee has the right to respond in writing.
5. A statement advising the employee to whom the response should be directed.
6. The date the employee's response is due.
7. The Notice must be signed and dated by the department head or his/her designee.

Service of the Notice of Proposed Disciplinary Action

The Notice of Proposed Disciplinary Action, if practicable, should be delivered to the employee personally and the employee shall sign for receipt of the notice. If it is impractical to personally deliver the notice, it shall be sent by certified mail, return receipt requested, to the employee's last known address, and delivery is deemed complete at the time of mailing. It is presumed that the employee received the Notice on the date it was signed by the department head or his/her designee. The department must provide a copy of the Notice to Human Resources.

Employee Response

An employee shall have five (5) working days from the date of delivery of the Notice of Proposed Disciplinary Action to respond as described above. However, if the department has reasonable cause to believe that the employee has committed a crime for which a prison or jail sentence could be imposed, the response time shall be only three (3) working days. In calculating these deadlines, the date of delivery is not counted. If the response is mailed, it must be postmarked by the response date.

14.2 NOTICE OF DISCIPLINARY ACTION

The department has five (5) working days from receipt of the employee's response to send the employee a written Notice of Disciplinary Action. The day of receipt is not counted against the five (5) day limit. The deadline may be extended by agreement of the parties.

Notice of Disciplinary Action

The Notice of Disciplinary Action shall include the following:

1. The decision of the department regarding disciplinary action.
2. The effective date of the disciplinary action. If the date is not specified in the Notice, it is deemed to be the day after the Notice is delivered to the employee.
3. The reasons for the disciplinary action.
4. A statement advising the employee of the right to appeal the decision to the Commission. (See section 16.2)
5. The identity of the person to whom the appeal should be addressed and delivered.
6. The identity of the person or office from which the employee may obtain any additional information about the employee's rights.

Service of the Notice of Disciplinary Action

The Notice of Disciplinary Action, if practicable, should be delivered in person and a receipt should be signed by the employee. If personal service is not possible or practical, service is deemed complete if the Notice is sent by certified mail, return receipt requested, to the employee's last known address.

14.3 COPIES OF DISCIPLINARY ACTIONS

A copy of the Notice of Disciplinary Action and Proposed Notice of Disciplinary Action shall be placed in the employee's personnel file after ten (10) working days if no appeal of the Disciplinary Action has been filed with the Commission. If an appeal of the Disciplinary Action has been filed with the Commission, a copy of the Notice of Disciplinary Action and Proposed Notice of Disciplinary Action will not be placed in the employee's personnel file until the appeal is resolved by the Commission or the appeal is withdrawn by the employee. If the appeal is resolved by the Commission, a copy of the decision will be placed in the employee's personnel file.

15. INVESTIGATIVE ADMINISTRATIVE LEAVE

Investigative Administrative Leave is the temporary release from duty for up to ten (10) working days while an investigation is conducted into any serious violation of civil service or department rules or regulations. Investigative Administrative Leave shall be paid leave.

The department may place an employee on Investigative Administrative Leave when the conduct in question would, if proven; constitute a crime against Webb County or any of its officials or employees. The period of Investigative Administrative Leave may be extended in increments of ten (10) working days to allow completion of the investigation. However, in no event shall paid Investigative Administrative Leave continue for a period of more than ninety (90) days.

Alternatively, in appropriate circumstances, the department may transfer the employee to another position while the investigation is conducted. In that event, the employee would continue to be paid at the same rate as his/her regular position.

Upon completion of the investigation, the employee will be returned to his/her regular position and/or disciplinary action may be taken depending upon the results of the investigation.

16. PERSONAL GRIEVANCES

A personal grievance is a written complaint made by an employee concerning a condition of employment. Verbal counseling or a written reprimand cannot be the subjects of a personal grievance but an employee may submit a written rebuttal that will be placed in the employee's personnel file. Demotion, suspension, and termination are the subjects of a separate section and may not be used as the basis for a personal grievance.

16.1 FILING A GRIEVANCE WITHIN A DEPARTMENT

1. An employee must file a written personal grievance form with the department head or his/her immediate supervisor within five (5) working days from the first date of the occurrence or the first date the employee became aware of the occurrence of the incident or condition which is the subject of the grievance. In determining the deadline, the day of the occurrence is not counted.

   a. Failure to meet the time limit for the initial filing acts as a forfeiture of the right to grieve that occurrence or condition.

   b. The grievance shall clearly state "Personal Grievance."

   c. An employee cannot grieve the occurrence of an incident or conduct that occurred during that employee's probationary period.

   d. An employee cannot grieve a verbal counseling.

   e. A copy of the personal grievance must be filed with Human Resources the same day it is filed with the department head. Human Resources will notify the department of its deadline to respond.

2. The department has five (5) working days to respond in writing to the employee's personal grievance. In determining the deadline, the day the personal grievance was received is not counted. Failure to meet the time limit does not act as an admission, default, or forfeit of the

department's position. The parties may, by written agreement, extend the deadline to respond.

16.2 FILING AN APPEAL WITH THE COMMISSION

1. If the employee is not satisfied with the final written determination from the department or if no determination is issued, the employee may appeal to the Commission. The appeal shall be written on an Employee's Appeal Form as made available by Human Resources. No appeal will be accepted unless it is made on the Employee's Appeal Form. The completed form must be filed with Human Resources within five (5) working days of delivery of the final determination or the date the final determination was due, whichever is earlier. In determining the deadline, the day the final determination was received is not counted.

2. Any appeal filed after the deadline is null and void and shall not be accepted for filing by the Commission. Human Resources staff shall inform the Commission of any appeal that was not accepted.

3. The Commission has no jurisdiction to hear an appeal regarding budgetary matters, reorganizations, and other matters not specified in Texas Local Government Code § 158.001 et seq., as amended.

16.3 HEARING PROCEDURES FOR PERSONAL GRIEVANCES

Requesting a Department Response Form

Following receipt of an appeal, the Human Resources staff will make a written request for a response from the department. The response should be made on a Department Response Form and filed within five (5) working days upon receiving the appeal. The day Human Resources requested the response will not be counted in determining the deadline. When Human Resources receive the Department Response, they will then provide a copy to the employee.

Setting the Matter for Hearing

The Commission will set the matter for hearing. Appeals from personal grievances are the last in the order of priority for hearing settings.

Notice of Hearing

1. The employee must keep the Commission informed of his/her current address.

2. The Commission will notify all parties of the hearing date, time and location. This notice will be provided at least ten (10) working days prior to the hearing date. A personal phone call or the mailing of a letter by certified mail, return receipt requested, to the last known address of the employee will constitute notice.

Request for Continuance

Any request to re-set a hearing must be made in writing seven (7) calendar days prior to

the scheduled hearing, unless an emergency arises. By agreement of the parties, the Commission will cancel and re-set the hearing date. However, the Commission will not re-set a hearing more than twice, unless the parties agree.

Request for Hearing Withdrawal

Any request to withdraw the grievance must be made in writing (7) calendar days prior to the scheduled hearing date set for this purpose.

Attendance at the Hearing

1. The employee must be present at the hearing and may represent himself/herself or may be represented by another person. The employee should notify the Commission of the selection of a representative and the identity of that representative prior to the hearing. The representative shall act as the spokesperson for the employee during the appeal process.

2. If the employee is not present at the time of the hearing, the Commission shall dismiss the appeal and enter a written order to that effect.

3. The department must be present through the elected official, department head, or other representative.

Hearing* of *Personal Grievances

1. The hearing shall be open to the public unless the employee notifies the Commission in writing five (5) working days prior to the hearing date that the employee wishes the hearing to be closed. Human Resources staff, and recording personnel shall be present.

2. An oath shall be administered to each witness by a person authorized by law to administer oaths. Once sworn, witnesses will be subject to the penalties of perjury under the Civil Service Rules.

3. The Commission shall have the authority to determine the time limits for all portions of the hearing.

4. At the beginning of the hearing, the presiding Civil Service Commissioner shall read the contents of the Employee's Appeal Form, including the reason for the appeal, the date of the occurrence, and the remedy requested by the employee.

5. Either party may invoke "the rule" as described in Texas Rule of Evidence 614, in which all witnesses, excluding the employee and the department representative, will not be allowed to remain in the hearing, and no witness shall discuss his/her testimony with another witness.

6. In advance of the hearing, a party must provide eight (8) copies of any documents it wishes the Commission to consider.

7. The employee presents his/her appeal to the Commission first and the employee carries the burden of proof, by a preponderance of the evidence. The employee has the right to attempt to set aside the decision of the department head by disproving the factual basis asserted by the department for the disciplinary action or by demonstrating that the disciplinary action was disproportionate to the nature and severity of the offense.

8. The department then has the opportunity to respond.

9. The employee may then reply to the department's response.

10. Each side may call witnesses and will be allowed to cross-examine the other side's witnesses. Alternatively, the Commission may opt for a discussion format if it believes such a format may expedite the proceedings and result in a fair conclusion.

11. The Commission may ask the party and/or witness any necessary questions. As well as recall any witness if clarification or additional information is needed.

12. Any witness may be released by the Commission after giving testimony.

13. The Commission may compel the appearance of any County employee to give testimony and/or to produce any documents that are not excluded from public disclosure by the Texas Public Information Act or any other law. Upon request of the employee or department, five (5) working days prior to a hearing, the Commission may send a notice to a department head directing him/her to direct another employee to appear before the Civil Service Commission for this purpose.

14. The employee or his/her representative may make a closing statement, followed by the department. The employee may choose to make a short rebuttal.

15. The Commission may recess to deliberate in executive session. If it does, the Commission shall reconvene in open session and make a decision.

16. The Commission may choose to deny the appeal, grant the relief requested, or award an alternative form of relief appropriate to the particular circumstances of the case. Any relief may include an award of back pay if authorized by law and Civil Service Rules.

17. If the employee is to receive back pay by order of the Commission, the employee shall receive full compensation at the rate of pay that was provided for his/her position at the time of the appeal or in an amount considered by the Commission to be fair.

18. A written order shall be entered that sets out the ruling of the Commission.

Within ten (10) working days, the order shall be signed by the members of the Commission who made the decision. Copies of the order shall be sent to all parties.

Copy of the Record

A digital video recording shall be made of all grievance hearings and remain on file with Human Resources. Upon request, the Webb County Public Information Officer shall provide a copy as permitted by law, and upon payment of such copy.

17. SUSPENSION, DEMOTION, OR TERMINATION — APPEAL AND HEARING

17.1 APPEAL OF SUSPENSION, DEMOTION, OR TERMINATION

1. An employee who wishes to appeal a suspension, demotion or termination may appeal to the Commission. A written appeal on the Employee's Appeal Form available from the Commission shall be filed within five (5) working days after receipt of the Notice of Disciplinary Action. The day of receipt is not counted. An appeal that is not properly completed on the Employee Appeal Form will not be accepted for filing.

    a. An appeal filed after the deadline is null and void and shall not be accepted for filing by the Commission.

    b. The appeal shall be styled "Employee vs. Department/Office" and not against the elected/appointed official or department head.

    c. An employee cannot file an appeal of a disciplinary action occurring during an employee's probationary period.

2. Human Resources will request a response from the department. A response by the department should be made on the Department Response Form and filed with Human Resources within five (5) working days. The date the completed form is received by Human Resources will not be counted in the five-day period.

17.2 HEARING PROCEDURES FOR APPEAL BEFORE CIVIL SERVICE COMMISSION

Setting the Matter for Hearing

1. The Commission will set the matter for hearing.
2. The order of priority of appeals before the Commission is terminations, demotions, and suspensions.

Notice of Hearing

1. The employee must keep the Commission advised of his/her current address.

2. The Commission will notify all parties of the hearing date, time and location. This notice will be given at least five (5) working days prior to the date of the hearing. A letter sent by certified mail to the known address of the employee within that time frame will constitute notice.

Request for Continuance

1. Any request to continue a hearing date must be made in writing at least five (5) working days prior to the scheduled hearing. By agreement of the parties, the Commission will cancel and re-set the hearing date. If an emergency arises, a majority of the Commission may re-set the hearing even in the absence of an agreement of the parties. The Commission will not re-set a hearing more than twice unless the parties and a majority of the Commission agree.

2. In cases involving termination or appeals requesting back pay, any requests for continuance made by or on behalf of the employee must contain a waiver of back pay, if any is subsequently awarded, from the originally scheduled hearing date.

Request for Hearing Withdrawal

Any request to withdraw the grievance must be made in writing (7) calendar days prior to the scheduled hearing date set for this purpose.

Attendance at the Hearing

1. The employee must be present at the hearing and may represent himself/herself, or may be represented by another person. If the employee chooses to be represented by another person, he must notify the Commission of the name, address, and telephone number of that representative at least five (5) working days before the hearing by filing with Human Resources a form made available for that purpose. Any representative shall act as the spokesperson for the employee during the appeal process.

2. If the employee is not present at the time of the hearing, the Commission shall dismiss the appeal and enter a written order to that effect.

3. The office or department must be present through the elected official, department head, or other representative.

Hearing the Appeal

1. An oath shall be administered to each witness by the Chairman authorized by law to administer oaths. Once sworn, witnesses will be subject to the penalties of perjury under the Civil Service Rules.

2. The Commission shall-have-the-authority-to determine the time limits for all portions of the hearing.

3. At the beginning of the hearing, the presiding Commissioner shall read from the Notice of Disciplinary Action Form the nature of the disciplinary action, including the date of the occurrence and the rule or policy violated.

4. The hearing shall be open to the public unless the employee notifies the Commission in writing at least five (5) working days prior to the hearing date that the employee wishes the hearing to be closed. In that event, the Commission may vote to close the hearing to the public. Human Resources staff, and recording personnel shall be present

5. Either party may invoke "the rule" as described in Texas Rule of Evidence 614, in which all witnesses, excluding the employee and the department representative, will not be allowed to remain in the hearing, and no witness shall discuss his/her testimony with another witness.

6. A party must provide eight (8) copies of any documents it wishes the Commission to consider in advance of the hearing.

7. The department proceeds first and has the burden of proof, by a preponderance of the evidence, in demonstrating the factual basis for the disciplinary action and that the disciplinary action was proportionate to the nature and severity of the offense.

8. Each party may make a brief opening statement to the Commission.

9. The department will present its case, witnesses, evidence and/or arguments first, and will have an opportunity to respond and present rebuttal witnesses after the employee's presentation.

10. Following the department's presentation, the employee may then present its case, witnesses, evidence and/or arguments.

11. Each side may call witnesses and will be allowed to cross-examine the other side's witnesses. Alternatively, the Commission may opt for a discussion format if it believes such a format may expedite the proceedings and result in a fair conclusion.

12. The Commission may ask any party or witness any necessary questions necessary, and also may recall any witness if clarification or additional information is needed.

13. Any witness may be released by the Commission after giving testimony.

14. The Commission may compel the appearance of any County employee to give testimony and/or to produce any documents that are not excluded from public disclosure by the Texas Public Information Act or any other law. Upon request of the employee or department five (5) working days prior to a hearing, the Chair may send a notice to a department head directing him/her to direct another employee to appear before the civil service commission for this purpose.

15. The department may make a closing statement, followed by the employee or his/her representative. The department may then choose to make a short rebuttal.

16. The Commission may recess to deliberate in executive session. If it does so, the Commission shall reconvene in open session and make a decision.

17. The Commission may choose to deny the appeal or grant the relief requested, which may include an award of back pay if authorized by law and Civil Service Rules.

18. If the employee is to receive back pay by order of the Commission, the employee shall receive full compensation at the rate of pay that was provided for his/her position at the time of the appeal or in an amount considered by the Commission to be fair.

19. A written order shall be entered that sets out the ruling of the Commission. The order shall be signed by the members of the Commission who made the decision. Copies of the order shall be sent to all parties.

Copy of the Record

A digital video recording shall be made of all grievance hearings and remain on file with Human Resources. Upon request, the Webb County Public Information Officer shall provide a copy as permitted by law, and upon payment of such copy.

Appeal to District Court

Pursuant to Chapter 158 of the Texas Local Government Code, an employee who, upon final decision by the Civil Service Commission is terminated from his/her position may file an appeal of the Commission's decision in District Court within thirty (30) days of the date of the decision. A job posting to fill this position cannot occur until after the final court decision.

18. FITNESS FOR DUTY

18.1 FITNESS FOR DUTY EVALUATION

Departments have the authority to direct an employee to take a fitness for duty medical exam when a specific injury, incident, action, or behavior indicates, in the reasonable judgment of the department head that such evaluation may be warranted.

Written Order and Administrative Leave

The department shall provide the employee with a written Order for Fitness for Duty Evaluation which provides the reason(s) the evaluation is being ordered. The Order should also include whether the employee will be placed on Administrative Leave, with pay, or retained on duty until a final determination is made.

Medical Evaluation

The employee should be referred for medical examination with a statement of the particular demands of the position and a statement of how the employee's performance fails to meet these demands. Evaluations will be conducted either by a physician, psychiatrist, or psychologist under contract or specifically employed for this purpose. A list of such providers shall be maintained by Human Resources. The evaluation shall be at no cost to the employee.

Failure to Complete the Evaluation

Failure by the employee to complete the evaluation process may result in disciplinary action, including termination.

Removal from Duty

In the event that the medical evaluation finds the employee not fit for duty, the employee will be removed from his/her position pursuant to Civil Service Rules and Regulations.

If the employee has a permanent disability protected under the Americans with Disabilities Act, the employee may be considered for an open position within that department. The employee must perform the essential functions of the job in question, with or without reasonable accommodation, and must meet the minimum job requirements. The employee's salary will depend on the pay range for the open position and will be in accordance with County policy. If there are no open positions or the employee refuses the offer, the department will proceed with termination.

18.2 APPEAL PROCEDURES — FITNESS FOR DUTY ACTIONS

An employee who is suspended, demoted, or terminated under this policy may file an appeal under the appeal procedures governing suspensions, demotions and terminations generally.

1. If the aggrieved employee files a timely appeal with the Commission, the Commission will select a physician, psychiatrist or psychologist, depending on the nature of the fitness requirement, to examine the employee. The name and contact information for the physician, psychiatrist or psychologist will be provided to the employee in writing. The employee is responsible for promptly scheduling an appointment with the health care provider to obtain an evaluation and opinion from the provider concerning the employee's fitness for duty.

2. The physician, psychiatrist or psychologist selected must not be employed by, or under contract with, the County. To assist in the evaluation, the provider will be advised in writing by Human Resources of the reason(s) the department believes the employee is not fit for duty as well as a full description of the nature of the employee's duties and, if applicable, the physical requirements of his/her job.

3. No later than the thirtieth (30^{th}) calendar day after receipt by the employee of the contact information, the Commission must be in possession of the results of the evaluation or the appeal will be forfeited. In order to facilitate the evaluation and the disclosure of same to the Commission, the employee must sign an authorization for the release of medical/psychiatric/psychological information to the Commission and to Human Resources. The employee shall cause the report of the evaluation as well as any relevant records from the selected health care provider or any other provider to be timely provided to the Commission.

4. If the employee is found by the health care provider to be fit for duty, all expenses of the evaluation will be paid by the County. If the employee is found by the health care provider not to be fit for duty, all expenses of the evaluation will be paid by the employee. Expenses include, but are not limited to, the charges of the health care provider for the evaluation, the cost of any tests or consultations, and charges for the medical records.

5. If the health care provider determines that the employee is fit for duty, the Commission will order reinstatement of the appealing employee.

Hearing before the Commission

The Commission will not hold an evidentiary hearing on Fitness for Duty Evaluation appeals, nor will it analyze or debate medical findings or evidence. The Commission's decision will be based solely upon the recommendation of the health care provider who performs the evaluation.

The Commission recognizes that there may be instances where an appealing employee may have been disciplined for violation of rules or unlawful acts, and this may have occurred in connection with a demotion, suspension, or dismissal related to the employee's fitness for duty. In those cases, the Commission shall resolve the issue of fitness for duty through the above procedures before determining the issue of the conduct or rule violations. If the appealing employee is reinstated on the issue of fitness for duty, the department is not prohibited from bringing or maintaining disciplinary action against the employee for any rule violations or improper conduct. Any disciplinary action for such violations or conduct shall be severed from the fitness for duty issue and dealt with at a separate hearing.

"ATTACHMENT A"

POSITIONS EXCLUDED FROM CIVIL SERVICE

BY RULE OF THE CIVIL SERVICE COMMISSION

All of the following positions are, by order of the Civil Service Commission, exempt from civil service. Such exemptions remain effective even if there is a change in the name of the position.

1. Part-time employees (those who work, on average, fewer than thirty hours per week).
2. All Department Heads as identified in the General Order of Personnel Positions as appended to the Webb County Budget.
3. Executive Administrator to the County Judge.
4. Executive Secretary to the County Judge.
5. Administrative Assistants to County Commissioners.
6. Executive Administrator to the Treasurer.
7. Chief Deputy Administrator, Tax Assessor-Collector's office (Slot #124).
8. Supervisor - Property Taxes, Tax Assessor-Collector's office (Slot #120).
9. Supervisor - Motor Vehicles, Tax Assessor-Collector's office (Slot #127).
10. Supervisor - Reporting & AS/400 Management, Tax Assessor-Collector's office (Slot #881).
11. All employees of the District Courts.
12. All employees of the County Courts at Law.
13. First Assistant Public Defender.
14. Chief Deputy District Clerk.
15. Chief Deputy District Clerk for the Central Jury Room.
16. Chief Deputy County Clerk.
17. Deputy Chief Sheriff (Slot #420).
18. Chief Deputy Sheriff (Slot #421).
19. Administrative Assistant to the Sheriff (Slot #417).
20. Major-Patrol Division (Slot #536) of the Sheriff's Department.
21. Major-Jail Division (Slot #427) of the Sheriff's Department.
22. Public Relations Officer (Slot #547) of the Sheriff's Department.
23. Comptroller (Slot #533) of the Sheriff's Department.
24. Major (Slot #357 of the Sheriff's Department.
25. Senior Captain (Slot #358) of the Sheriff's Department.
26. Chief Deputy Constable of Constable Precinct 1.
27. Major for Constable Precinct 2.
28. Assistant Fire Chief (Slot #2600)
29. Administrative Captain (Slot #1290) of Constable Precinct 4 -12/2013.
30. Captain, Jail Division (Slot # 2676) of Sheriff's Department.
31. Community Outreach Coordinator, Commissioner Precinct 3 (Slot #2676).
32. Certified Peace Officer, Justice of the Peace, Precinct 1, Place 1 (Slot #2683).
33. Community Outreach Coordinator, Commissioner Precinct 4 (Slot #2677).
34. (Commissioner) Precinct 4 Relations Administrator (Slot #2745) – 1/2013 & 1/2015
35. Group Supervisor (Slot #2728) of Sheriff's Office – 7/2013.
36. Project Coordinator (Slot #1742) of Commissioner Pct. 1 – 12/2013.
37. Chief Deputy (Slot #0893) of Constable Pct. 4 – 12/2013.
38. Executive Administrator (Slot#2334) – Constable Pct. 4 – 3/2014.

This Civil Service Rules and Regulations were adopted by action of the Webb County Civil Service Commission at its Meeting of June 12, 2015.

TANO E. TIJERINA
WEBB COUNTY JUDGE

ATTESTED:

MARGARITA RAMIREZ IBARRA
WEBB COUNTY CLERK

APPROVED AS TO FORM:

MARCO MONTEMAYOR
WEBB COUNTY ATTORNEY*

*By law, the County Attorney's office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney.