

**PEACE OFFICER MERIT COMMISSION POLICY & PROCEDURE****APPEAL PROCEDURE****PURPOSE**

To establish uniform procedures for appealing discipline to the Merit Commission.

**PROCEDURE****1.0 HEARING PROCEDURE:**

- 1.1 The Merit Commission shall hear appeals of discipline sustained on internal appeal regarding matters relating to dismissal, demotion, reduction-in-pay, suspension. The Merit Commission has no jurisdiction to hear or decide any other disciplinary matters. However, a right of appeal to the district court under applicable provisions of law shall not be abridged.
- 1.2 Appellants shall only have the right to appeal to the Merit Commission following exhaustion of internal appeal processes.
- 1.3 Such appeals shall be filed in writing with the Merit Commission within ten (10) calendar days after the employee was served with notice of the decision or after the decision was due. The timely filing of the appeal is jurisdictional. The Merit Commission shall arrange a formal hearing not less than ten (10) nor more than ninety (90) calendar days after receipt of such appeal. A hearing may be held more than ninety (90) calendar days after an appeal or grievance is filed if the employee and Sheriff agree or for good cause the Merit Commission so orders.
- 1.4 Upon receipt of an appeal, the Merit Commission shall determine its jurisdiction over the appeal as provided in 1.1 and 1.2.
- 1.5 The Merit Commission shall notify the Sheriff of the filing of a Request for Appeal Hearing no later than three (3) calendar days after receipt of the notice.
- 1.6 The Merit Commission shall notify the appellant and the Sheriff of the date, time and place of the scheduled appeal prehearing and the procedures to be followed at the hearing.
- 1.7 The Merit Commission shall require the parties to submit a prehearing outline. The purpose of prehearing outlines is to identify the basic issues to be addressed at the hearing. With the notice of the hearing date, the parties will be notified of the date the outlines are due. Written outlines should be available to the Merit Commission at least five (5) working days prior to the prehearing and copies must be delivered to the opposing representative within that time limit. The Commission has the discretion to grant an extension of time regarding the filing of documents for good cause shown.
  - 1.7.1 The appellant will be required to file the initial outline and the Sheriff's representative will respond; however, when no clear, written documentation has been provided to the appellant on an issue, the Sheriff's representative may be required to file the initial outline with the appellant responding, subject to an optional follow-up outline by the Sheriff's representative. The appellant's statement or prehearing outline must be received by the Merit Commission and the Sheriff's representative within nine (9) calendar days following notification to the appellant of the date of the hearing or as directed by the Merit Commission.

1.7.2 Following receipt of the appellant's statement or prehearing outline, the Sheriff's representative shall submit to the Merit Commission and the appellant a rebuttal. This statement or prehearing outline must be received by the Merit Commission and the appellant within nine (9) calendar days following receipt of the appellant's prehearing outline or as directed by the Merit Commission.

1.7.3 For good cause shown, additional issues may be orally raised at the time of the hearing; however, the responding party will be allowed an extension of time, if necessary, to prepare a response to these issues. When needed, the Merit Commission may request that the parties submit post-hearing outlines in order to clarify specific issues of an appeal.

#### 1.7.4 Outline Contents

1.7.4.1 A prehearing outline is not a formal legal brief, nor should it be overly long or technical. The appellant's statement shall include the following information:

- 1) the name, home address, work address, home telephone number and work telephone number of the appellant;
- 2) the name, work address and telephone number of the appellant's representative (if any);
- 3) a short statement of the nature of the appeal;
- 4) a statement of facts or occurrences surrounding the appeal;
- 5) a statement of the relief requested;
- 6) where necessary, and to a very limited extent, a statement or argument regarding any legal issues presented by the appeal;
- 7) statements of denial of charges, mitigating or extenuating circumstances, or other information; and
- 8) a list of witnesses. The appellant is responsible for notifying such witnesses of the date, time and place of the hearing.

1.7.4.2 The Sheriff's representative prehearing outline shall include the following information:

- 1) a statement that is concise and in sufficient detail as to present all of the pertinent facts;
- 2) where necessary, and to a very limited extent, a statement or argument regarding any legal issues presented by the appeal; and
- 3) a list of witnesses. The Sheriff's representative shall be responsible for notifying such witnesses of the date, time and place of the hearing.

## 2.0 CONTINUANCE OF HEARINGS

2.1 The scheduling of hearings and continuances is at the discretion of the Merit Commission and is not a matter of right.

2.1.1 Appeal hearings before the Merit Commission shall be set not less than ten days and not more than ninety (90) days from receipt of a hearing request. The Merit Commission may hold a hearing more than 90 days after an appeal is filed if the parties agree or the Merit Commission finds that the delay is for good cause.

2.1.2 If the appellant requests a continuance of the hearing, both parties must sign an agreement to waive any claim to the appellant's back wages or benefits beyond the original hearing date. The agreement, however, will not prohibit the Merit Commission from awarding such benefits or wages at its sole discretion.

#### 2.1.5 Requests for Continuance of Hearings

2.1.5.1 The Merit Commission will manage the scheduling of hearings to minimize continuances and to assure a prompt and efficient disposition of all cases. The granting of continuances is within the Merit Commission's discretion and is not a matter of right. Matters may be rescheduled or postponed for good cause.

2.1.5.2 Timely, Written Requests. A party desiring to postpone the proceeding or filing of a motion or other legal document to a later date shall file a written request for continuance with the Merit Commission

2.1.5.2.1 Every request for a continuance shall specify the reason for the requested delay.

2.1.5.2.2 In considering a request for continuance, the Merit Commission shall take into account whether the request was timely made in writing and whether the request is for good cause.

2.1.6 Parties must not anticipate that a given number of continuances are granted to each party, nor that a series of continuances is permitted.

### 3.0 INTERIM AND SUMMARY ORDERS

Except with respect to the time period for taking appeal, upon written petition filed with the Merit Commission and served on the other party, or on its own motion, the Merit Commission may make such orders as it deems equitable and for good cause shown, including, but not limited to:

3.1 summary determination;

3.2 extending the time set forth in these rules within which any party is required to act;

3.3 requiring or permitting amendments to written statements filed with the Merit Commission based upon reasonable notice to the opposing party and an opportunity to reply; or

3.4 any matter determined to be in the best interest of resolving the appeal and within the jurisdiction of the commission

### 4.0 ABANDONMENT OF APPEAL, DEFAULT, AND DISMISSAL

4.1 Abandonment of Appeal: In the event the Merit Commission determines that an appeal has been withdrawn, abandoned or otherwise neglected beyond either the established time lines or a reasonable period, the Merit Commission may order the appeal dismissed any request to withdraw an appeal shall be in writing.

- 4.1.1 Motion for Default/Dismissal. Upon failure of either party to timely appear or submit required documents, the Merit Commission may, upon motion or its own initiative, excuse the failure for just cause or may enter such order as it appears to be appropriate, including entering an order of default or dismissal. A party served with a motion shall respond within five (5) working days. If the party served does not respond within five (5) working days, the Merit Commission may rule on the motion without further delay.

5.0 PROCEDURES AND DSMC HEARINGS

Upon receipt of a request for an appeal, the Merit Commission Staff shall furnish the appellant with a copy of this policy

APPROVED AND PASSED THIS 26 DAY OF May, 2016

SALT LAKE COUNTY  
PEACE OFFICER MERIT COMMISSION

By:

  
Kenneth Wallentine, Chair

**REQUEST FOR APPEAL HEARING BEFORE THE  
SALT LAKE COUNTY PEACE OFFICER MERIT COMMISSION**

<b>Employee/Appellant:</b>	If the Appellant will have Legal or Other Representation:
<b>Address (Street):</b>	<b>Name:</b>
<b>City                      State                      Zip</b>	<b>Address (Street):</b>
<b>Business Phone:                      Home Phone:</b>	<b>City                      State                      Zip</b>
<b>Division:</b>	<b>Business Phone:                      Home Phone:</b>
	<b>Supervisor's Name:</b>

**Employment status** (check one): [  ] merit employee                      [  ] applicant

I AM APPEALING

Termination	Demotion	Applicant Grievances
Suspension	Reduction in Pay	

**DATE OF FINAL INTERNAL AGENCY ACTION BEING APPEALED:**

Please provide a statement regarding your appeal and specify what action(s) are being appealed (attach additional pages if necessary):

**NOTE: Failure by the employee/appellant to file within the required time limits without written justification as required by policy shall void the appeal petition.**

**Please list any witnesses you anticipate testifying at your hearing:**

NAME	ADDRESS	PHONE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**WHAT REMEDIES DO YOU WANT THE MERIT COMMISSION TO PROVIDE?**

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**I have read and understand Merit Commission Policy & Procedures: Merit Commission Grievance Procedures and Appeal Procedure for the Merit Commission, and acknowledge that I have followed these procedures. I hereby request a hearing before the Merit Commission.**

\_\_\_\_\_  
Signature of Employee/Appellant

\_\_\_\_\_  
Date