



Hays County Sheriff's Office Civil Service Commission Rules for Disciplinary Hearings

Rules Generally:

These rules shall govern the review of an administrative action by the Hays County Sheriff's Office Civil Service Commission in all grievance proceedings, except as hereinafter stated, pursuant to Chapter Seven of the Hays County Sheriff's Office Civil Service Rules.

Key Terms:

1. The Commission: The Hays County Sheriff's Office Civil Service Commission
2. The Sheriff: Hays County Sheriff's Office
3. The Grievant: The individual who appealed the discipline to the Commission
4. Standard Hearing: The set hearing structure with default time limits
5. Extended Hearing: The set hearing structure with extended time limits to some or all portions of the hearing.
6. The Rules: The rules for hearing contained within this document and any other subsequent amendments still in effect.
7. The Director: The Director of the Commission
8. The Chairperson: The Chair of the Commission.

Note: Any terms not herein defined, but defined in the Hays County Sheriff's Office Civil Service Commission Rules, have the meaning as used in the Hays County Sheriff's Office Civil Service Commission Rules. However, to the extent that said term is defined there and in this document, the definition in this document is binding.

Representation:

Any party to a grievance may appear and present their position. The Grievant shall notify the Director if he has a representative or attorney and the representative's / attorney's name and contact information. Notification should occur at the time of filing the grievance, or as soon thereafter as possible, but no later than five (5) calendar days. Either the Sheriff's representative, the Sheriff's designee, or the Sheriff's attorney may present Sheriff's case, but both will not be allowed to participate in the presentation of information notwithstanding the Sheriff's attorney may cross-examine any witness. Additionally, the presenter or their attorney may make objections which will be ruled on by the Chair. The Commission, by majority vote, may overrule the Chair's ruling. The same rule will apply to the Grievant and his representative or attorney.

Burden of Proof:

The Sheriff has the burden of proof, based on a preponderance of the evidence, to demonstrate the Grievant committed improper conduct. Such proof must be provided to the

Commission either through documentation, sworn testimony, or both. The Commission may allow additional types of evidence at its discretion.

Dismissal of Grievance:

At any time before a decision is rendered, the Grievant may withdraw the grievance, and the withdrawal shall be entered into the record.

Within fifteen (15) days of the Grievant filing the appeal, the Grievant and the Sheriff's representative, the Sheriff's designee, or the Sheriff's attorney must meet with the Grievant to determine if any agreement can be reached regarding the disciplinary action and appeal. If no agreement is reached, the Sheriff's representative, the Sheriff's designee, or the Sheriff's attorney shall file a notice with the Commission that no agreement was reached.

Appearance:

All parties, witnesses, representatives, attorneys, etc. that will take part in the hearing must appear in person for said hearing, except that the Commission may, for good cause, allow a witness to appear via videoconference by a majority vote of the Commission. The Commission Members may appear via videoconference at the discretion of the Chairperson and in compliance with applicable statutes.

Limited Arguments:

The Sheriff will be limited to the arguments and facts as generally made or alleged in the Communication for Decision of Discipline, i.e. the suspension memo. The Grievant shall be limited to the arguments and facts as generally made in the Grievant's filings of appeal with the Commission.

The Sheriff and the Grievant are both limited to the arguments and facts as generally made or alleged in the respective filings said parties filed with the Commission.

Irrespective of the limitations on the parties, the Commission may request any additional information it believes is necessary in order to make a determination on the appeal. Such additional information shall be provided by the Director. The Commission may allow the Grievant to amend their appeal letter in the event unexpected evidence is presented by the Sheriff's department. Such amendment is solely at the discretion of the Commission.

Civility:

All parties and witness must act respectfully, in good faith, and civilly with one another. All parties and witnesses must obey the directives of the Chairperson or a majority of the Commission during any hearings.

General Structure of a Hearing: (Note: Standard Hearing time-limit then is two hours.)

1. Determination of whether the hearing will be a Standard Hearing or an Extended Hearing.
 - a. **Note:** The only difference between the two types of hearings shall be that the Extended Hearing may grant additional time to any section of the hearing, but must grant the same amount of time to both sides (Example: If HCSO needs an additional hour to directly examine their witnesses, then the Grievant shall have an additional hour available as well)
 - b. A request for an extended hearing may be made by the Sheriff or the Grievant at

least five (5) days prior to the disciplinary hearing. For good cause the Commission may allow additional time during the hearing, but must give the same amount of time to both sides

- c. The Commission may also determine additional time is needed on its own initiative. The additional time must only be granted for good cause.
2. Sheriff Opening Statement (Time limit: 5 minutes)
3. Grievant Opening Statement (Time limit: 5 minutes)
4. Sheriff Main Case
 - a. Sheriff Direct Examining Witnesses (Time limit: 20 minutes, total)
 - b. Grievant Cross Examining Witness (Time limit: 10 minutes, total)
 - c. Sheriff Re-Direct Examining Witnesses (Time limit: 10 minutes, total)
 - d. Grievant Re-Cross Examining Witness (Time limit: 5 minutes, total)
5. Grievant Main Case
 - a. Grievant Direct Examining Witnesses (Time limit: 20 minutes, total)
 - b. Sheriff Cross Examining Witness (Time limit: 10 minutes, total)
 - c. Grievant Re-Direct Examining Witnesses (Time limit: 10 minutes, total)
 - d. Sheriff Re-Cross Examining Witness (Time limit: 5 minutes, total)
6. Questions by the Commission (Time limit: 15 minutes)
7. Grievant Closing Statement (Time limit: 2.5 minutes)
8. Sheriff Closing Statement (Time limit: 2.5 minutes)

Any party may request additional time from the commission for presentation and witness questioning. Further, any party may request a continuance before or during a hearing which shall only be granted by the commission for good cause. Any party may request a short recess during a hearing to confer with their counsel. Any additional time, continuance, or recess is at the discretion of the commission. But granting or denying must be done in an equitable manner. After the presentation, testimony, and evidence, the Commission will deliberate and render its decision.

General Procedural Rules:

- The Texas Rules of Evidence shall act as a general guide and set of principles, but shall not be binding on the Commission.
- Parties / their representatives may make good faith objections and brief arguments to witness testimony or improper questions by the opposing party; the opposing party may respond as well. During said objections and response, the time-clock is generally paused. However, at the Commission's discretion, should either party abuse said objections or responses the Commission may deduct time from said person's total allotment. The Commission will warn said person before it does so.
- The Commission may exclude suspect evidence or evidence outside the scope of the filings as generally made or alleged in the respective filings said parties filed with the Commission.
- A call for a procedural determination may be invoked by any of the Commission Members, but any decision must pass by majority vote.
- Time shall be kept by the Director.
- The Grievant shall submit its full appellate brief to the Commission no later than five (5) business days before the end of the fifteen (15) business days period as referenced in 7.04.6 of the Hays County Sheriff's Office Civil Service Rules.
- If the Grievant desires to call witnesses, the Grievant must file a witness list at the time of

filing the appeal. Such list must be filed with the director.

- The Sheriff's Office must provide a list of witnesses, if any, within 3 days of receiving the appeal.
- Both the Sheriff and the Grievant may request all documentation provided to the Commission by the opposing party which was given to the Commission for the purpose of the hearing. Said request shall be made to the director.