

**ARTICLE 1. GENERAL
RULE 104. MERIT SYSTEM
ADMINISTRATION**

**EFFECTIVE DATE: 05/04/98
REVISED DATE: 09/27/00**

A. COURT ADMINISTRATOR: The Court Administrator is responsible to the Presiding Judge for the accomplishment of all personnel functions assigned by the Presiding Judge. The Court Administrator is also responsible to the Presiding Judge for all other personnel functions in both the classified and unclassified service. In addition to duties imposed elsewhere, the Court Administrator will:

1. Administer all the provisions of these Rules;
2. Propose and promulgate Personnel Rules and amendments thereto;
3. Enforce approved Merit System Rules;
4. Prepare and maintain a classification plan;
5. Prepare and maintain a compensation plan;
6. Provide recruitment and selection procedures for positions in the classified and unclassified service;
7. Provide employee development programs including orientation, training, safety and general welfare;
8. Perform all other duties required to administer the Judicial Employee Merit System;
9. Serves as the administrative arm of the Merit Commission and Hearing Officer and maintain all records of the activities of the Merit Commission and Hearing Officer;
10. Performs any other lawful act considered necessary or desirable to carry out the purposes or provisions of these Rules.

B. DELEGATION OF RESPONSIBILITIES:

1. The Court Administrator may delegate certain defined responsibilities to identified staff member(s) of the Court Administrator's Office, the Personnel Officer, one or more Court Division Head(s) or a Mohave County Department in order to effect the provisions of these Rules.
2. When the Court Administrator delegates certain responsibilities covered in these Rules to member(s) of the Court Administrator's Office, the Personnel Officer, one or more Court Division Head(s) or a Mohave County Department to increase the efficiency of the organization, such individual(s) have the responsibility of applying all Merit System Rules to the delegated actions and for conducting them in the same

manner as would the Court Administrator.

C. MERIT SYSTEM COMMISSION:

1. **ESTABLISHMENT:** There is created a Merit System Commission of nine (9) individuals appointed by the Presiding Judge and selected from among the employees of the Court and qualified electors of the County. Members of the Merit Commission should be supportive of the application of merit principles in Judicial employment.
2. **COMMISSION MEMBER QUALIFICATIONS AND COMPOSITION:**
 - a. No member of the Commission shall be a candidate for any elective or public office, except as defined in Rule 502.
 - b. Five (5) Commissioners shall be residents of Mohave County who shall not be employees of the Court. Two (2) Commissioners shall be employees or elected officials of the Court whose positions are at a supervisory level, as determined by the Presiding Judge. Two (2) Commissioners shall be employees of the Court whose positions are at a non-supervisory level, as determined by the Presiding Judge.
3. **CONFLICT OF INTEREST:**
 - a. Supervisory and non-supervisory employee Commissioners may remove themselves from hearing a grievance, or may be removed by order of the Presiding Judge, in instances of actual or apparent conflict of interest including but not limited to situations in which:
 1. the supervisory or non-supervisory employee is employed in the division from which the grievance originates; or
 2. the Commissioner is a grievant; or
 3. the Commissioner is a Respondent; or
 4. the findings and recommendations of the Merit Commission in rendering a recommended resolution of the grievance to the Presiding Judge will have a material impact, either positive or negative, on the employment conditions of the Commissioner.
 - b. In those instances wherein a Commissioner removes him/herself from

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hearing a grievance as provided for under this Rule, a written record of the reason for such removal shall be established, either in the form of a written letter of removal by the Commissioner or, in those instances wherein the removal is accomplished by the Presiding Judge, in the form of the Presiding Judge's order.

4. TERM OF OFFICE:

- a. Unless earlier replaced or removed by the Presiding Judge, each member of the Commission and except the original trustees shall hold office for a term of four (4) years and/or until a successor is appointed and seated.
- b. In an effort to provide continuity and orderly operation of the Merit Commission, the original Commissioners shall serve terms as follows:
 1. One (1) employee Commissioner shall serve a two (2) year term.
 2. One (1) employee and one (1) non-employee Commissioner shall each serve three (3) year terms.
 3. Two (2) non-employee Commissioners shall serve four (4) year terms.
- c. Appointment by the Presiding Judge to fill a vacancy caused by other than expiration of term shall be for the unexpired portion of the term.

5. RESIGNATION AND REMOVAL: Any member of the Commission may resign at any time. Any member of the Commission may be removed by the Presiding Judge for good cause. Any one (1) of the following shall constitute the resignation of a Commissioner and authorizes the Presiding Judge to appoint a new member to fill the unexpired term so vacated:

- a. Absence from three (3) consecutive meetings providing no good cause shown.
- b. Becoming a candidate for any public office except as defined in Rule 502(C).
- c. For any non-employee Commissioner, accepting any appointive office or other employment in the Judicial or Mohave County service.
- d. For any employee Commissioner, separation from Judicial service for any reason including but not limited to resignation, retirement, layoff or dismissal for cause.

- e. Submission to the Presiding Judge of a signed letter of resignation by a departing member of the Commission.

6. POWERS AND DUTIES OF THE COMMISSION:

- a. The Merit Commission shall act in an advisory capacity to the Presiding Judge in matters affecting personnel administration in the Judicial service. The Commission shall perform such duties and exercise such powers as are provided for in these Rules. In addition to duties imposed elsewhere, the Commission shall:
 - 1) Recommend to the Presiding Judge rules, processes, procedures and/or programs for administration of the Merit System and advancement of professionalism and efficiency in the Judicial service.
 - 2) Hear grievances (except those arising from administrative suspension without pay, disciplinary suspension, demotion, dismissal or alleged illegal discrimination) filed by regular status classified employees.
 - 3) Advise the Presiding Judge on problems concerning personnel administration in the Judicial service.
 - 4) Make such special reports and recommendations to the Presiding Judge as it considers desirable.

7. ELECTION OF OFFICERS:

- a. The Commissioners shall elect from among their members a chairperson and vice-chair person, provided that Commissioners elected to these positions may not be employees of the Court.
- b. Terms of officerships on the Commission shall be for calendar year periods commencing on January 1 and ending on December 31 of each year.
- c. In those situations wherein an officer position becomes vacant prior to the expiration of the officer's term, the officer elected as a replacement shall serve for the remainder of the calendar year in which the vacancy arose.
- d. The chairperson, or, in the absence of the chairperson, the vice-chair person, shall call and conduct the meetings of the Commission according to such rules, procedures and practices as may be adopted by majority vote of the

Commission.

8. **MERIT COMMISSION MEETINGS:** The Merit Commission shall hold meetings at such times and places as specified by a call of the majority or the Chairperson. Except in the case of an actual emergency, Commission meetings shall be held with at least twenty-four (24) hours notice. The notice shall be posted in at least one (1) public place in the Mohave County Courthouse. In case of an actual emergency as determined by the Commission or its Chairperson, a meeting may be held upon lesser or other notice as is appropriate under the circumstances. Notice required under this section shall include an agenda of the matters to be discussed or decided at the meeting or information on how the public may obtain a copy of such agenda. Such agenda shall be available to the public not less than twenty-four (24) hours prior to the meeting except in the case of an actual emergency.
9. **QUORUM:** The presence of five (5) Commission members in person or via telephonically shall constitute a quorum for the transaction of business, including the conduct of hearings, provided that any such quorum include no fewer than three (3) non-employee Commissioners.
10. **AGENDA:** All matters to be presented for consideration by the Commission at any meeting shall be placed upon the Commission's agenda. The agenda will be mailed to each member of the Commission, any employee(s) having a grievance before the Merit Commission where such grievance is to be heard by the Commission at such meeting, and such employee(s)' Division Head prior to such meetings.
11. **NOTICE:** The Court Administrator will, unless extenuating circumstances prohibit, at least five (5) working days prior to the meeting, mail or cause to be mailed to each involved Division Head and to each interested party having previously requested same in writing, a copy of the notice of the meeting of the Commission, and either an agenda for the meeting or information as to how an agenda may be obtained. Failure of a division or Division Head or involved party to receive the notice and/or agenda shall not affect the validity of the meeting or of any action taken by the Commission at the meeting, if notice was properly posted pursuant to Rule 104(D)(8) herein. In a case of an actual emergency, as determined by the Commission or its Chairperson, a meeting may be held upon lesser or other notice as is appropriate under the circumstances.
12. **MINUTES:** The Court Administrator shall provide for the recording of official actions of the Commission in its meetings. The time and place of each meeting, the Commissioners present, all official acts of the Commission, and, when requested, a Commissioner's dissent and reasons will be recorded in the minutes. The Court Administrator shall transcribe the minutes and present them for approval or amendment on or before the next Commission meeting. The minutes will be open to

public inspection three (3) working days after the subsequent meeting, except as otherwise prohibited by law.

13. **SERVING OF NOTICE:** Unless otherwise provided by law or these Rules, whenever any notice, paper or document is given to or served upon any person or Division by the Merit Commission or the Court Administrator, such notice, paper or document may be personally served, or it may be served by mailing it to the last known residence or business address of the addressee. Service is considered complete upon mailing.

D. HEARING OFFICER:

1. **ESTABLISHMENT:** The Office of Hearing Officer is hereby created for the sole and express purpose of serving in an advisory capacity to the Presiding Judge in hearing appeals from alleged instances of illegal discrimination or harassment and appeals from administrative suspensions without pay and disciplinary suspensions, demotions and dismissals.
2. **QUALIFICATIONS OF THE HEARING OFFICER:** The Hearing Officer shall have any combination of education, training and/or experience, that qualifies them to review the implementation and administration of disciplinary practices in employment settings and/or, in those situations in which the Hearing Officer is to hear appeals involving allegations of illegal discrimination or harassment, with fundamental statutory and administrative premises of discrimination theory. Hearing Officers need not be trained as attorneys. Hearing Officers may not be appointed or elected officials of the Superior Court, or Superior Court divisions in Mohave County. Hearing Officers also may not be attorneys or other individuals who are likely to conduct business or have judicial matters before the Superior Court in Mohave County within twenty-four (24) months of the period during which they serve as a Hearing Officer.
3. **SELECTION OF HEARING OFFICER:** The Court Administrator shall maintain a list or lists of individuals and/or organizations available to provide Hearing Officer services. Hearing Officers shall be selected based on their actual or apparent expertise as pertains to the appeal to be heard.
4. **POWER AND DUTIES OF THE HEARING OFFICER:**
- a. The Hearing Officer shall act in an advisory capacity to the Presiding Judge in all assigned appeals from alleged discrimination or harassment, administrative suspension without pay and disciplinary suspension, demotion or dismissal.

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- b. The Hearing Officer may administer oaths, compel attendance of and examine witnesses, and compel production of and review documents as provided for in these Rules.