

YORK-POQUOSON SHERIFF'S OFFICE	RULES AND REGULATIONS
SUBJECT: Employee/Appointee Discipline	NUMBER: RR 1-7
EFFECTIVE DATE: October 18, 2018	REVIEW DATE: October 18, 2018
AMENDS/SUPERSEDES: RR 1-7, September 21, 2017	APPROVED: _____  Sheriff
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1 **INDEX WORDS**

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17
18 **POLICY**

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20 It is the Sheriff's policy to impose disciplinary actions in a progressive fair, consistent,
21 proportional and timely manner providing notice of infractions and violations to
22 employees/appointees and to offer adequate appeal procedures to ensure that the rights of
23 employees/appointees are protected. Discipline is a process of informal actions such as verbal
24 and written counseling or imposing formal sanctions, which will help train, develop or discipline
25 an appointee, but preferably through constructive rather than punitive measures.

26
27 **PURPOSE**

28
29 The purpose of this directive is to establish procedures concerning informal and formal
30 disciplinary practices within the Sheriff's Office.

31
32 **DEFINITIONS**

- 33
34 • Days
35 ○ Days and shifts shall be synonymous. The term "days," as used herein, means
36 calendar days.
37
38 • Relief from duty

- 39 ○ An administrative action by a superior whereby a subordinate deputy is temporarily
40 relieved from performing his or her duties.
41
- 42 • Discipline
 - 43 ○ Can be positive or negative
 - 44 ▪ Positive discipline may be in the form of public or inter-office recognition,
45 commendations and awards.
 - 46 ▪ Negative discipline may be in the form of non-formal verbal or written counseling
47 or more formal action such as written reprimands, demotions, suspensions or
48 termination.

50 **PROCEDURES**

- 51
- 52 • Positive discipline
 - 53 ○ Positive discipline seeks voluntary compliance with established policies, procedures,
54 and orders. Methods of positive discipline include:
 - 55 ○ Recognition of excellent job performance through rewards or awards.
 - 56 ○ When people outside the Sheriff's Office formally compliment an
57 employee's/appointee's performance, the person who receives the information shall
58 forward the comments or letter to the employee's/appointee's supervisor who shall
59 enter the information in the Guardian Tracking program.
 - 60 ○ When at the discretion of the Sheriff, he or she receives significant compliments
61 about an employee/appointee;
 - 62 ▪ A letter may be written thanking the citizen for recognizing the
63 employee/appointee.
 - 64
 - 65 ○ Copies of the citizen's statement and the Sheriff's response shall be sent to the deputy
66 involved and the deputy's supervisor through an entry in Guardian Tracking program.
67 Truly exceptional acts shall be clearly and promptly forwarded to the Sheriff. These
68 acts may be the basis for special awards or special recognition by citizen-community
69 groups or media coverage.
 - 70
 - 71 • Counseling
 - 72 ○ Counseling may be utilized as a function of discipline. Supervisors are expected to
73 counsel employees/appointees regularly.
 - 74 ○ Counseling is a means to address behavioral or rules violations early in an attempt to
75 prevent the need for more serious disciplinary action in the future.
 - 76 ○ Most counseling is informal, but shall be documented in the Guardian Tracking
77 program any time it involves unacceptable behavior or violations of Sheriff's Office
78 Policy and Procedures.
 - 79 ○ Counseling is most beneficial when increased performance is sought. Supervisors are
80 responsible for counseling employees/appointees concerning job-related matters,
81 within their capabilities.
 - 82 ○ Many things can affect the job and an employee's/appointee's performance, so job-
83 related counseling may involve family and other individual personal subjects.

- 84 ○ Counseling may include identification of unacceptable behaviors or actions,
85 specifically what was done wrong, and the desired or acceptable performance.
86 Counseling can attempt to determine the reason for the particular behavior or
87 determine and recommend how to correct or improve performance.
88
- 89 ● Utilizing training
- 90 ○ Training may be used as a function of discipline and may be deemed necessary to
91 rectify poor performance or improper behavior.
92 ○ Training may include attendance at academy classes, in-service, or other training
93 specially created to help the appointee correct or modify his or her performance or
94 behavior.
95 ○ Training should be reasonably provided until the employee/appointee can
96 demonstrate proficiency in the corrected performance or behavior.
97 ○ All training shall be properly documented.
98 ○ If remedial training is used as a form of discipline, the discrepancy identified as well
99 as the area the training is intended to address shall be documented in the Guardian
100 Tracking program.
101
- 102 ● Negative discipline
- 103 ○ Progressive forms of discipline shall be used in addressing disciplinary matters.
104 ○ Employee's/Appointee's shall be notified and counseled about accepted standards
105 and rules of conduct, when infractions or undesired conduct are first identified, before
106 more severe disciplinary action is taken.
107 ○ However, even in the absence of prior disciplinary measures, serious offenses will
108 incur more severe disciplinary action, up to and including termination.
109
- 110 ● Non-Formal disciplinary actions
- 111 ○ Non-formal disciplinary actions may be used, when deemed appropriate.
112 ○ Verbal counseling may be used by the immediate supervisor and is used in situations
113 where counseling can be expected to resolve the problem or alert the
114 employee/appointee of expected future conduct and the consequences of the
115 recurrence of such behavior.
116 ○ Verbal counseling shall be documented in the Guardian Tracking program for future
117 use by the supervisor or subsequent supervisors in the event that further discipline is
118 needed.
119 ○ Written Counseling's are used for more significant violations or repeated infractions
120 completed in the form of a Memo on letterhead and shall be attached to a Guardian
121 Tracking entry.
122 ○ Written counseling's shall be signed the employee/appointee being counseled and are
123 used to eliminate any ambiguity regarding the appointee's knowledge of the
124 infraction, desired behavior or expected performance.
125 ▪ Through written counseling employees/ appointees are advised that their behavior
126 must improve and may provide performance or training measures that must be
127 met or further specified action will be taken. Written counseling's shall be
128 documented in the Guardian Tracking program.
129

- 130
- Formal disciplinary actions
 - Formal disciplinary actions may be used for gross or intentional violations of Sheriff's Office policy and procedures or for repeated acts of bad behavior or violations of policy and procedures.
 - While non-formal disciplinary actions are preferred, some acts of bad behavior or policy and procedure violations will warrant immediate formal disciplinary action.
 - Formal disciplinary actions can take the form of:
 - Written reprimands
 - Removal from Specialty Teams
 - Loss of privileges such as use of take home car
 - Suspensions without pay
 - Demotion
 - Termination
 - All forms of formal disciplinary actions are subject to appeal by the disciplined employee/appointee.
 - Written Reprimands
 - A written reprimand is a formal written notice of a violation that shall become part of an appointees official personnel file.
 - Written reprimands shall spell out in detail the violation as well as list other non-formal actions previously taken, if applicable, as well as any punitive measures taken as a result of the violation.
 - Written reprimands may also document direct specific actions and or training the appointee must complete and the failure to complete the actions or training may result in additional disciplinary action.
 - Written reprimands may be imposed by supervisors of the rank of Sergeant and above.
 - Suspension without pay
 - Suspension without pay up to 10 days may be used when a serious violation occurs or previous counseling's and or written reprimands have not succeeded in bringing about the desired change in the employees'/appointee's behavior.
 - Supervisors may recommend suspensions without pay; however, only the Chief Deputy or Sheriff may impose any suspensions without pay
 - Suspensions without pay less than five (5) days may be imposed by Chief Deputy without prior written notice to the appointee.
 - For suspensions without pay of five (5) days or longer, the Chief Deputy shall notify the employee/appointee in writing of the reasons for the proposed suspension and the appointee shall be afforded an opportunity to schedule an administrative hearing with the Sheriff prior to the proposed effective date.
 - The Chief Deputy may place an employee/appointee in a suspended with pay status pending the administrative hearing with the Sheriff.
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- 174 ○ In order to comply with the Fair Labor Standards Act (FLSA), in situations other than
175 safety rule violations of major significance, exempt employees/appointees must be
176 suspended in increments of days that represent a full workweek.
- 177 ○ Employees/Appointees who are suspended and successfully appeal a suspension
178 without pay under this policy will receive back pay for the days the suspension is
179 reduced by.
- 180
- 181 ● Requirements upon suspension without pay
- 182 ○ Supervisors intending to recommend suspensions without pay shall, prior to initiating
183 the disciplinary action, consult with their immediate supervisor, who shall in turn
184 consult with the Chief Deputy, to determine if a suspension with pay is warranted
185 pending resolution of the disciplinary action.
- 186 ○ A sworn employee/appointee under suspension without pay shall return to the Chief
187 Deputy or division commander his/her badge, identification card, issued firearm, and
188 if applicable, vehicle.
- 189 ○ During suspension with or without pay, no employee/appointee shall undertake any
190 official duty.
- 191 ○ During suspension with or without pay, in the event the suspended
192 employee/appointee is under subpoena for court, the suspended employee/appointee
193 shall appear in appropriate civilian court attire and follow all rules of the court as
194 required of civilian citizens.
- 195
- 196 ● Demotions/Salary reductions
- 197 ○ Demotion or salary reduction may be used as alternatives to suspension or
198 termination.
- 199
- 200 ● Termination of Employment
- 201 ○ Termination of employment is used for the most egregious violations or when other
202 measures have failed. See [RR 1-20, Termination of Employment](#)
- 203 ○ Before an employee/appointee is terminated, the Sheriff shall conduct a determination
204 hearing with the appointee involved, if requested by the employee/appointee. See [RR](#)
205 [1-20, Termination Employment](#)
- 206
- 207 ● Authority to administer disciplinary actions
- 208 ○ Supervisors are responsible and accountable for their assigned employees/appointees.
209 As such, each supervisor has been given the authority to maintain proper discipline
210 and to enforce Sheriff's Office policies.
- 211 ○ Any supervisor may initiate and recommend any form of discipline.
- 212 ○ Any disciplinary measure beyond a written counseling however, must be approved by
213 the Sheriff or his designee.
- 214
- 215 ● Relief from duty
- 216 ○ An employee/appointee may be relieved from duty whenever any supervisor
217 questions an employees'/appointee's physical or psychological fitness for duty. An
218 internal affairs investigation may follow.

- 219 ○ Supervisors have the authority to relieve an employee/appointee from duty, but must
220 promptly report this action to the Sheriff, through his or her chain-of-command,
221 accompanied by a written report setting forth details and circumstances.
222 ○ If the necessity to relieve from duty is not immediate, the behavior or actions of the
223 employee/appointee shall be deemed a matter of internal affairs.
224 ○ In an internal affairs investigation, only the Sheriff, or his designee, may relieve an
225 employee/appointee from duty.
226 ○ Supervisors, holding the rank of Captain and above, may suspend any
227 employee/appointee whose continued presence on the job constitutes a substantial and
228 immediate threat to the welfare of the agency, the public, or to him or herself.
229 ○ Any employee/appointee who acts insubordinate or refuses to obey a direct order in
230 conformance with the Sheriff's Office policy may be relieved from duty by any
231 supervisor holding the rank of Sergeant or above. Suspension, demotion, or
232 termination of the individual may be recommended.
233
- 234 ● Consistency in discipline
 - 235 ○ The Sheriff abides by the philosophy that discipline must be applied consistently and
236 uniformly. [RR 1-9 Complaints/Internal Affairs](#) describes complaint procedures
237 against Sheriff's Office employees/appointees whereas this order discusses appointee
238 recognition and penalties for various infractions. The Sheriff's Office does not
239 provide employees/appointees with a complete list of specifically prohibited
240 behavior. One list of examples of such behavior appears beginning on line 331 of this
241 directive, but no list can be all-inclusive. Employees/Appointees are expected to have
242 a reasonable perception of what constitutes proper behavior.
243
 - 244 ● Appeal procedures in disciplinary actions
 - 245 ○ Employees/Appointees under formal disciplinary actions may appeal that action up
246 through the chain of command beginning with the next highest supervisor in the
247 appointee's chain of command from the supervisor administering the disciplinary
248 action.
 - 249 ○ Non-formal disciplinary actions are not appealable under this policy.
 - 250 ○ Generally, formal discipline will be initiated by a first line supervisor, Sergeant or
251 Lieutenant; however, in the instance where the disciplinary action is being
252 administered by a Division Commander the first level of appeal will be with the Chief
253 Deputy and if the disciplinary action is being administered by the Chief Deputy the
254 first, and only, appeal shall be to the Sheriff who's decision in the matter shall be
255 final.
 - 256 ○ Employees/Appointees subject to formal disciplinary action may note an appeal of
257 the action within three (3) business days by checking the appropriate block on the
258 Disciplinary Form indicating their desire to appeal the disciplinary action and
259 returning the form to the supervisor administering the disciplinary action.
 - 260 ■ The supervisor administering the disciplinary action shall:
 - 261 ❖ Notify their Division Commander or Chief Deputy, if the action is being
262 initiated by a Division Commander, of the employees/appointees desire to
263 appeal the disciplinary action within three (3) business days of being notified
264 of appointee's desire to appeal the action.

- 265 ❖ Deliver the disciplinary form and any other documentation and evidence to
266 the supervisor hearing the initial appeal within the allotted time.
267
- 268 ▪ The Supervisor hearing the appeal shall, within five (5) business days, schedule a
269 hearing with the disciplined employee/appointee and the supervisor administering
270 the disciplinary action.
271 ❖ In the event the hearing can be scheduled within five (5) business days a later
272 date may be used upon mutual agreement of the supervisor hearing the appeal
273 and the disciplined employee/appointee.
274
- 275 ▪ The supervisor hearing this appeal shall review the documentation and evidence
276 provided and information provided by the disciplined employee/appointee.
277
- 278 ▪ The supervisor hearing this level of appeal shall render one of the following
279 decisions:
280 ❖ Approve the disciplinary action as submitted.
281 ❖ Modify the disciplinary action by:
282 ➤ Imposing a higher level of discipline.
283 ➤ Increase, change or reduce punitive measures.
284 ➤ Reduce the disciplinary action a lower level of discipline.
285 ➤ Dismiss the disciplinary action.
286
- 287 ▪ In the event the supervisor hearing this level of appeal reduces the disciplinary
288 action to a non-formal disciplinary action or dismisses the disciplinary action, no
289 further appeals shall be permitted.
290
- 291 ▪ In the event the supervisor hearing the appeal does not lower the action to a non-
292 formal action or dismiss the action and the employee/appointee desires to appeal
293 this decision further up the chain of command, the employee/appointee shall,
294 within three (3) business day's note in writing on the disciplinary form their
295 desire for further appeal to the supervisor who heard the appeal.
296
- 297 ▪ The same time lines and process as listed above shall apply to subsequent appeals
298 except for appeals to the Sheriff.
299
- 300 ○ Appeals to the Sheriff
- 301 ▪ Once all other supervisory avenues of appeal have been exhausted,
302 employees/appointees may appeal disciplinary actions to the Sheriff, whose
303 decision in matter shall be final.
304
- 305 ▪ Employees/Appointees desiring to appeal a disciplinary action to the Sheriff shall
306 notify the Chief Deputy either in writing or verbally their desire to appeal the
307 action to the Sheriff within three (3) business days of the Chief Deputy's appeal
308 decision.
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- The Chief Deputy shall, as soon as possible but no more than three (3) business day's notify the Sheriff of the employees/appointees desire to appeal. The Chief Deputy shall provide to the Sheriff any supporting documentation requested.
 - The Sheriff shall, as soon as possible, but no more than five (5) business days, unless a longer period is mutually agreed to by the Sheriff and disciplined employee/appointee, schedule a hearing with the employee/appointee to consider the disciplinary action.
 - The Sheriff's decision in the disciplinary action is final.
 - Before an employee/appointee is terminated, the Sheriff shall conduct a determination hearing with the appointee involved, if requested by the employee/appointee. (See [RR 1-20 Termination Employment](#))
 - Maintenance and security of records of disciplinary actions
 - The original of any written disciplinary action above a written counseling shall be forwarded to Administrative Services Division Commander for insertion into the employee's/appointee's official personnel file at the Sheriff's Office. A copy shall also be inserted into the employee's/appointee's file maintained by Human Resources for York County. Disciplinary action at this level shall be maintained and purged in accordance with the records retention schedule approved by the Library of Virginia, Records Management Division.

INFRACTIONS AND DISCIPLINARY ACTION

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- Reasons for discipline include, but are not limited to the following:
 - Lying, cheating, and stealing in any of the forms these might take.
 - Sexual or other forms of harassment.
 - Disregard for work or safety rules.
 - Failure to meet job standards.
 - Misuse of position with the County.
 - Willful or negligent damage to County property.
 - Inappropriate or excessive use of force.
 - Unnecessarily placing property or persons at risk of injury.
 - Unauthorized weapons possession and/or un-justified physical violence.
 - Refusal to comply with lawful orders from an authorized supervisor.
 - Failure to follow County or Sheriff's Office policy and procedures whether the same are established in writing or by standard practice.
 - Dereliction of duty/Failure or act.
 - The possession, use, distribution or sale of controlled substances without a valid prescription.
 - Reporting to work under the influence of alcohol or controlled substances.
 - Gambling on County time or property.
 - Falsification or improper use of Sheriff's Office or County records.

- 355 ○ Commission of any act constituting a crime under Federal or State law or County
356 ordinance:
357 ▪ While on County time or property;
358 ▪ Or of such a nature as to indicate unfitness or unsuitability for continued
359 employment in the particular position.
360

361 **Note: The preceding is intended only as a guide and disciplinary action is not limited to**
362 **these offenses. The severity of the discipline will depend on the facts and circumstances of**
363 **each particular instance.**
364

- 365 • Probationary appointees
366 ○ Probationary employees/appointees shall be dismissed, suspended, or otherwise
367 disciplined according to the above listed criteria. However, probationary
368 employees/appointees have no right of appeal.
369
- 370 • Sexual harassment and other discrimination
371 ○ Employees/Appointees found to have engaged in discrimination on the basis of race,
372 color, religion, national origin, political affiliation, handicap, age, or sex (including
373 sexual harassment) may be counseled or disciplined, depending upon the specific
374 facts and circumstances surrounding the incident. Sexual harassment is defined in
375 [RR 1-8 Discrimination and Sexual Harassment](#).
376
- 377 • Offenses involving lying, cheating or stealing (Moral Turpitude)
378 ○ Every employee/appointee shall report to their immediate supervisor any acts or
379 evidence of any other appointee involving lying, cheating or stealing.
380 ○ Any employee/appointee who fails to report known acts, by other
381 employees/appointees, of lying, cheating or stealing, shall be subject to disciplinary
382 action.
383 ○ All acts involving lying, cheating or stealing by an employee/appointee shall as soon
384 as possible be reported up through the chain of command to the Sheriff or his
385 designee.
386 ○ Along with any other disciplinary action imposed, employees/appointees found to be
387 involved in incidents involving moral turpitude shall be subject to the following:
388 ○ The Chief Deputy shall notify the Attorney for the Commonwealth of any violations
389 by employees/appointees involving acts of lying, cheating or stealing.
390 ○ The Attorney for the Commonwealth shall then make a determination if the violation
391 invokes the provisions of Brady v Maryland 373 U.S. 83 (1963) and/or Giglio v The
392 United States 405 U.S. 150 (1972).
393 ▪ Brady v Maryland, in short, creates reversible error anytime the prosecution in a
394 criminal case withholds evidence that may be beneficial to a criminal defendant.
395 ▪ Giglio v The Unites States, in short, requires prosecutors to reveal to a defendant
396 any information which may call the credibility of a prosecution witness, including
397 law enforcement officers, into question.
398
- 399 ○ In the event the Attorney for the Commonwealth determines he/she will no longer use
400 an employee/appointee as a witness in criminal cases, due to an act involving moral

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turpitude, the appointee who is subject to such determination shall be subject to immediate termination.