


<b>YORK-POQUOSON SHERIFF'S OFFICE</b>	<b>RULES AND REGULATIONS</b>
<b>SUBJECT: Employee/Appointee Discipline</b>	<b>NUMBER: RR 1-7</b>
<b>EFFECTIVE DATE: July 1, 2021</b>	<b>REVIEW DATE: November 3, 2020</b>
<b>AMENDS/SUPERSEDES: RR 1-7, October 18, 2018</b>	<b>APPROVED:</b> _____  Sheriff
<b>VLEPSC: PER.09.02, PER.09.03, PER.09.05</b>	

1    **INDEX WORDS**

- 2    Appeals
- 3    Counseling
- 4    Decertification
- 5    Demotion
- 6    Discipline
- 7    Harassment
- 8    Moral Turpitude
- 9    Penalties
- 10   Probationary appointees
- 11   Punishment
- 12   Relief from duty
- 13   Reprimands, Written
- 14   Sexual harassment
- 15   Supervision
- 16   Termination
- 17   Training

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19   **POLICY**

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

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28   **PURPOSE**

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

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33   **DEFINITIONS**

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

- 39 • Relief from duty
- 40 ○ An administrative action by a superior whereby a subordinate deputy is temporarily
- 41 relieved from performing his or her duties.
- 42
- 43 • Discipline
- 44 ○ Can be positive or negative
- 45 ▪ Positive discipline may be in the form of public or inter-office recognition,
- 46 commendations and awards.
- 47 ▪ Negative discipline may be in the form of non-formal verbal or written counseling
- 48 or more formal action such as written reprimands, demotions, suspensions or
- 49 termination.
- 50

## 51 PROCEDURES

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

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

- 175           ○ In order to comply with the Fair Labor Standards Act (FLSA), in situations other than  
176 safety rule violations of major significance, exempt employees/appointees must be  
177 suspended in increments of days that represent a full workweek.
- 178           ○ Employees/Appointees who are suspended and successfully appeal a suspension  
179 without pay under this policy will receive back pay for the days the suspension is  
180 reduced by.
- 181
- 182           ● Requirements upon suspension without pay
- 183           ○ Supervisors intending to recommend suspensions without pay shall, prior to initiating  
184 the disciplinary action, consult with their immediate supervisor, who shall in turn  
185 consult with the Chief Deputy, to determine if a suspension with pay is warranted  
186 pending resolution of the disciplinary action.
- 187           ○ A sworn employee/appointee under suspension without pay shall return to the Chief  
188 Deputy or division commander his/her badge, identification card, issued firearm, and  
189 if applicable, vehicle.
- 190           ○ During suspension with or without pay, no employee/appointee shall undertake any  
191 official duty.
- 192           ○ During suspension with or without pay, in the event the suspended  
193 employee/appointee is under subpoena for court, the suspended employee/appointee  
194 shall appear in appropriate civilian court attire and follow all rules of the court as  
195 required of civilian citizens.
- 196
- 197           ● Demotions/Salary reductions
- 198           ○ Demotion or salary reduction may be used as alternatives to suspension or  
199 termination.
- 200
- 201           ● Termination of Employment
- 202           ○ Termination of employment is used for the most egregious violations or when other  
203 measures have failed. See [RR 1-20, Termination of Employment](#)
- 204           ○ Before an employee/appointee is terminated, the Sheriff shall conduct a determination  
205 hearing with the appointee involved, if requested by the employee/appointee. See [RR](#)  
206 [1-20, Termination Employment](#)
- 207
- 208           ● Authority to administer disciplinary actions
- 209           ○ Supervisors are responsible and accountable for their assigned employees/appointees.  
210 As such, each supervisor has been given the authority to maintain proper discipline  
211 and to enforce Sheriff's Office policies.
- 212           ○ Any supervisor may initiate and recommend any form of discipline.
- 213           ○ Any disciplinary measure beyond a written counseling however, must be approved by  
214 the Sheriff or his designee.
- 215
- 216           ● Relief from duty
- 217           ○ An employee/appointee may be relieved from duty whenever any supervisor  
218 questions an employees'/appointee's physical or psychological fitness for duty. An  
219 internal affairs investigation may follow.

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

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- ❖ Deliver the disciplinary form and any other documentation and evidence to the supervisor hearing the initial appeal within the allotted time.
  - The Supervisor hearing the appeal shall, within five (5) business days, schedule a hearing with the disciplined employee/appointee and the supervisor administering the disciplinary action.
    - ❖ In the event the hearing can be scheduled within five (5) business days a later date may be used upon mutual agreement of the supervisor hearing the appeal and the disciplined employee/appointee.
  - The supervisor hearing this appeal shall review the documentation and evidence provided and information provided by the disciplined employee/appointee.
  - The supervisor hearing this level of appeal shall render one of the following decisions:
    - ❖ Approve the disciplinary action as submitted.
    - ❖ Modify the disciplinary action by:
      - Imposing a higher level of discipline.
      - Increase, change or reduce punitive measures.
      - Reduce the disciplinary action a lower level of discipline.
      - Dismiss the disciplinary action.
  - In the event the supervisor hearing this level of appeal reduces the disciplinary action to a non-formal disciplinary action or dismisses the disciplinary action, no further appeals shall be permitted.
  - In the event the supervisor hearing the appeal does not lower the action to a non-formal action or dismiss the action and the employee/appointee desires to appeal this decision further up the chain of command, the employee/appointee shall, within three (3) business day's note in writing on the disciplinary form their desire for further appeal to the supervisor who heard the appeal.
  - The same time lines and process as listed above shall apply to subsequent appeals except for appeals to the Sheriff.
  - Appeals to the Sheriff
    - Once all other supervisory avenues of appeal have been exhausted, employees/appointees may appeal disciplinary actions to the Sheriff, whose decision in matter shall be final.
    - Employees/Appointees desiring to appeal a disciplinary action to the Sheriff shall notify the Chief Deputy either in writing or verbally their desire to appeal the action to the Sheriff within three (3) business days of the Chief Deputy's appeal decision.

- 311           ▪ The Chief Deputy shall, as soon as possible but no more than three (3) business  
312           day's notify the Sheriff of the employees/appointees desire to appeal. The Chief  
313           Deputy shall provide to the Sheriff any supporting documentation requested.  
314
- 315           ▪ The Sheriff shall, as soon as possible, but no more than five (5) business days,  
316           unless a longer period is mutually agreed to by the Sheriff and disciplined  
317           employee/appointee, schedule a hearing with the employee/appointee to consider  
318           the disciplinary action.  
319
- 320           ▪ The Sheriff's decision in the disciplinary action is final.  
321
- 322           ○ Before an employee/appointee is terminated, the Sheriff shall conduct a determination  
323           hearing with the appointee involved, if requested by the employee/appointee. (See  
324           [RR 1-20 Termination Employment](#))  
325
- 326           ● Maintenance and security of records of disciplinary actions  
327           ○ The original of any written disciplinary action above a written counseling shall be  
328           forwarded to Administrative Services Division Commander for insertion into the  
329           employee's/appointee's official personnel file at the Sheriff's Office. A copy shall  
330           also be inserted into the employee's/appointee's file maintained by Human Resources  
331           for York County. Disciplinary action at this level shall be maintained and purged in  
332           accordance with the records retention schedule approved by the Library of Virginia,  
333           Records Management Division.  
334

### **INFRACTIONS AND DISCIPLINARY ACTION**

- 337           ● Reasons for discipline include, but are not limited to the following:  
338           ○ Lying, cheating, and stealing in any of the forms these might take;  
339           ○ Sexual or other forms of harassment;  
340           ○ Disregard for work or safety rules;  
341           ○ Failure to meet job standards;  
342           ○ Misuse of position with the County;  
343           ○ Willful or negligent damage to County property;  
344           ○ Inappropriate or excessive use of force;  
345           ○ Failure to intervene, when feasible, to stop the application of inappropriate or  
346           excessive use of force;  
347           ○ Failure to report the known or suspected inappropriate or excessive use of force;  
348           ○ Failure to render aid, when feasible, to a person following the inappropriate or  
349           excessive use of force;  
350           ○ Unnecessarily placing property or persons at risk of injury;  
351           ○ Unauthorized weapons possession and/or un-justified physical violence;  
352           ○ Refusal to comply with lawful orders from an authorized supervisor;  
353           ○ Failure to follow County or Sheriff's Office policy and procedures whether the same  
354           are established in writing or by standard practice;  
355           ○ Dereliction of duty/Failure or act;



- 356 ○ The possession, use, distribution or sale of controlled substances without a valid
- 357 prescription;
- 358 ○ Reporting to work under the influence of alcohol or controlled substances;
- 359 ○ Gambling on County time or property;
- 360 ○ Falsification or improper use of Sheriff's Office or County records;
- 361 ○ Commission of any act constituting a crime under Federal or State law or County
- 362 ordinance:
- 363     ▪ While on County time or property;
- 364     ▪ Or of such a nature as to indicate unfitness or unsuitability for continued
- 365 employment in the particular position.
- 366

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

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

- 402                   ❖ *Giglio v The Unites States*, in short, requires prosecutors to reveal to a  
403                   defendant any information which may call the credibility of a prosecution  
404                   witness, including law enforcement officers, into question.  
405
- 406                   ○ In the event the Attorney for the Commonwealth determines he/she will no longer use  
407                   an employee/appointee as a witness in criminal cases, due to an act involving moral  
408                   turpitude, the appointee who is subject to such determination shall be subject to  
409                   immediate termination.  
410
- 411                   ● Decertification as a Virginia Law Enforcement Officer
- 412                   ○ In accordance with Section [15.2-1707](#), Code of Virginia, for incidents occurring after  
413                   July 1, 2021, the Sheriff shall notify the Criminal Justice Services Board in writing  
414                   within 48 hours of becoming aware that any certified law enforcement officer  
415                   currently employed by his agency has:
- 416                   ▪ Been convicted of or pled guilty or no contest to a felony or any offense that  
417                   would be a felony if committed in the Commonwealth of Virginia;
- 418                   ▪ Been convicted of or pled guilty or no contest to a Class 1 misdemeanor involving  
419                   moral turpitude or any offense that would be any misdemeanor involving moral  
420                   turpitude, including but not limited to petit larceny or any offense involving moral  
421                   turpitude that would be a misdemeanor if committed in the Commonwealth of  
422                   Virginia;
- 423                   ▪ Been convicted of or pled guilty or no contest to any misdemeanor sex offense in  
424                   the Commonwealth or another state or the United States including but not limited  
425                   to sexual battery or consensual sexual intercourse with a minor 15 or older;
- 426                   ▪ Been convicted of or pled guilty or no contest to domestic assault or any offense  
427                   that would be domestic assault under the laws of any other state or the Unites  
428                   States;
- 429                   ▪ Failed to comply with or maintain compliance with mandated training  
430                   requirements;
- 431                   ▪ Refused to submit to a drug screening or has produced a positive result on a drug  
432                   screening reported to the Sheriff’s Office, where the positive result could not be  
433                   explained to the satisfaction of the Sheriff;
- 434                   ▪ Who resigned or was terminated in advance of being convicted of an offense  
435                   requiring decertification;
- 436                   ▪ Who resigned or was terminated in advance of a pending drug screening;
- 437                   ▪ Who resigns or was terminated for engaging in serious misconduct as defined by  
438                   the state professional standards of conduct;
- 439                   ▪ Who resigns or is terminated for acts committed, while in the performance of his  
440                   duties, that compromises the deputies credibility, integrity, honesty or other  
441                   characteristics that constitute exculpatory or impeachment evidence in a criminal  
442                   case.  
443
- 444                   ○ Upon receiving notification of any of the above listed offense or incidents the  
445                   Criminal Justice Board shall immediately decertify such law enforcement officer.
- 446                   ▪ When a conviction has not become final, the Criminal Justice Services Board may  
447                   decline to decertify such officers until the conviction becomes final.

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- The Department of Criminal Justice Services is authorized to waive the requirements for decertification for good cause shown.