

MARICOPA COUNTY MERIT SYSTEM ANNUAL REPORT

FY 2005-2006



FY 2006-2007

Merit Commission Annual Report

Maricopa County Board of Supervisors



Fulton Brock,
Chairman
District 1



Don Stapley
District 2



Andrew Kunasek
District 3



Max Wilson
District 4



Mary Rose Wilcox
District 5

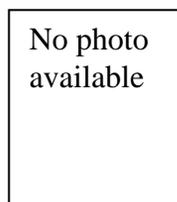
Merit Commissioners



Alberto Gutier,
Chairman
District 3



Tom Nixon,
Vice-Chairman
District 1



Scott
Higginson,
District 2



Jean McGrath,
District 4



Kathleen Hobbs,
District 5

County Administration

David R. Smith

County Manager

Sandra L. Wilson

Deputy County Manger

Elizabeth Yaquinto

Workforce Management & Development Director

Linda Young

Employee Relations Supervisor

Pat Soria

Merit Systems Administrator

Merit Commission Annual Report

MARICOPA COUNTY MANAGING FOR RESULTS ❖ Strategic Planning ❖

Maricopa County Mission Statement

The mission of Maricopa County is to provide regional leadership and fiscally responsible, necessary public services to its residents so they can enjoy living in healthy and safe communities.

Maricopa County Vision Statement

Citizens serving citizens by working collaboratively, efficiently and innovatively. We will be responsive to our customers while being fiscally prudent.

Strategic Priority Statement

Maintain a quality workforce and equip County employees with tools, skills, workspace and resources they need to do their jobs safely and well.

Merit Commission Annual Report

Merit System Authority

In 1969, the Arizona State Legislature enacted A.R.S. §11-351 through 11-356 and, enabling the Maricopa County Board of Supervisors to appoint an employee merit system. Subsequently, the Board of Supervisors



adopted a resolution on January 1, 1970, creating the employee merit system and the first meeting of the Commission was held on January 5, 1970. The Law Enforcement Officers Merit System Commission was later formed under A.R.S. 38-1001 through 38-1007 and the subsequent Board of Supervisors Resolution adopted on December 5, 1977.

The purpose of the Merit System is to provide a uniform and equitable system of personnel administration for employees in the Maricopa County classified service that is based on merit principles and free from political patronage. All action affecting the employment of personnel in the classified service shall be made according to merit as demonstrated by the qualifications and work performance of the applicant or employee. The Maricopa County Merit Commission administers three separate and distinct Merit Systems Rules:

Employee Merit System Rules

Law Enforcement Officers Merit System

Special Health Care District Employee Merit System¹

Merit System Rules

The merit rules govern the personnel administration of classified employees. The general provisions cover the Director's duties, recruitment, performance appraisals, employee leave and development, disciplinary actions, employee concerns resolution, potential discrimination, and personnel actions.

Rule 1: Definitions

Rule 2: General Provisions

Rule 3: Commission procedures

Rule 4: Job announcements & assessments

Rule 5: Registers

Rule 6: Certifications

Rule 7: Probation Period

Rule 8: Transfers, Promotions, Reassignments, and Demotions

Rule 9: Separations & Disciplinary Actions

Rule 10: Appeals

Rule 11: Code of Ethics

Rule 12: Leave Plan

¹ Through an intergovernmental agreement the County permits the District to utilize the Maricopa County Merit Commission (C3905036200).

Merit Commission Annual Report

Merit Commission Authority

Pursuant to statutory provisions, Board of Supervisors Resolution, and Merit Rules, the Commission serves as the independent personnel board to hear appeals from classified employees or former classified employees who have been suspended, demoted, or dismissed to determine whether the action appealed was arbitrary or taken without reasonable cause. An employee who is subjected to a reduction in force may appeal to the Commission only on the basis that the calculation of retention points was in error.



Under the Whistleblower Statute A.R.S. §38-352, the Commission also serves as the independent personnel board to hear complaints from employees or former employees who believe that a prohibited personnel action was taken against them as a result of a disclosure of information pertaining to a violation of any law, mismanagement, a gross waste of monies, or an abuse of authority.

Commissioners

Pursuant to the Board of Supervisors Resolution, each member of the Board shall nominate a Commission member from among the qualified electors, subject to appointment by the Board. The individual shall support the application of merit principles in public employment. No more than three of such members shall be from the same political party. No member of the Commission shall be a member of any local, state, or national committee of a political party or an officer or member of a committee in any partisan political club or organization, or shall hold, or be a candidate for any elective public office except as permitted. Each member shall hold office for a term of four years.

District 1

Tom Nixon was appointed on December 2, 2006, for a term to expire December 31, 2009, replacing Augustus Shaw who resigned. Commissioner Nixon was appointed Vice-Chairman on January 10, 2007, to serve for calendar year 2007.

District 2

Scott Higginson was appointed April 18, 2007, for a term to expire December 31, 2008, replacing Dan Reeb who resigned after serving seven years on the Commission.

Merit Commission Annual Report

District 3

Alberto Gutier was appointed on August 21, 2006, for a term to expire on December 31, 2008, replacing Sara Vannucci who resigned. Commissioner Gutier was appointed Chairman on January 10, 2007, and is serving as Chairman for calendar year 2007.

District 4

Jean McGrath was appointed on June 7, 2006, for a term to expire December 31, 2007, replacing Charlie Goodwin who resigned. Commissioner McGrath served as Chairman from September 13, 2006, until January 10, 2007.

District 5

Kathleen Hobbs was appointed on January 2, 2007, for a term to expire December 31, 2009, replacing Adelita Villegas who resigned.



Meetings

Pursuant to merit rules, the Commission shall hold at least four meetings each year. All meetings were conducted in accordance with the Arizona Open Meeting Law and meeting notices were distributed to county personnel and posted in a public place as well as the County's web page at www.maricopa.gov.

FY 05-06

July 12, 2005
October 5, 2005
November 2, 2005
December 7, 2005
January 11, 2006
February 1, 2006
May 3, 2006
June 7, 2006

FY 06-07

July 12, 2006
August 2, 2006
September 13, 2006
November 2, 2006
December 6, 2006
January 10, 2007
March 7, 2007
April 4, 2007
May 2, 2007
June 6, 2007

Merit Commission Annual Report

Appeals FY 2005-2006

Any classified employee who is suspended, involuntarily demoted or dismissed may appeal to the Commission. During FY 2005-2006, the Merit Commission carried over 10 appeals filed from FY 2004-2005 and accepted 18 new appeals. Of these 28 appeals, 14 were withdrawn, 11 final orders issued, and 3 appeals were carried over to FY 2006-2007. The disciplinary actions constituted 23 dismissals, 2 demotions, and 3 suspensions.

No.	Status	Date Filed	Date Closed	Final Action	First	Last	Discipline	Agency
MC2001-02	Closed	7/3/01	12/7/05	Denied	Daniel	Juarez	Dismissal	Sheriff
MC2002-31	Closed	12/17/02	2/1/06	Sustained	Michael	Juliano	Dismissal	Parks & Recreation
MC2004-27	Closed	11/5/04	7/12/05	Denied	Priscilla	Mason	Dismissal	MIHS
MC2004-32	Closed	1/12/05	7/12/05	Denied	Robbie	Bowman	Demotion	Sheriff
MC2004-33	Closed	1/19/05	7/12/05	Denied	Linda	Rowles	Dismissal	MIHS
MC2004-38	Closed	2/15/05	11/2/05	Denied	Jose	Garcia	Suspension	Facilities Management
MC2004-39	Closed	3/31/05	2/27/06	Withdrawn	Jose	Garcia	Dismissal	Facilities Management
MC2004-40	Closed	4/18/05	12/7/05	Denied	Luis	Cordova	Dismissal	Sheriff's Office
MC2005-05	Closed	6/7/05	2/1/06	Denied	Virginia	Mahoney	Dismissal	MIHS
MC2005-02	Closed	6/21/05	8/10/06*	Withdrawn	Robbin	Ortega	Dismissal	MIHS
MC2005-03	Closed	7/6/05	8/22/05	Withdrawn	Vicki	Lopez	Dismissal	Public Defender
MC2005-06	Closed	7/25/05	7/12/06*	Denied	Chad	Lisk	Dismissal	Sheriff's Office
MC2005-07	Closed	9/14/05	9/13/06*	Denied	Melissa	DeBartolo	Dismissal	Sheriff's Office
MC2005-08	Closed	10/21/05	6/7/06	Denied	Barbara	Pfeil-Doherty	Dismissal	MIHS
MC2005-09	Closed	10/24/05	11/21/05	Withdrawn	Juliet	Peganyee	Suspension	Public Health
MC2005-12	Closed	11/08/05	2/22/06	Withdrawn	Cecilia	Fleming	Dismissal	MIHS
MC2005-10	Closed	11/16/05	12/12/05	Withdrawn	Robert	Salazar	Dismissal	MIHS
MC2005-11	Closed	11/16/05	3/28/06	Withdrawn	John	Springfield	Dismissal	Sheriff's Office
MC2005-13	Closed	1/17/06	2/21/06	Withdrawn	Gina	Pollaro	Demotion	Public Health

Merit Commission Annual Report

MC2005-15	Closed	1/31/06	7/12/06*	Denied	Lorraine	Muhammad	Suspension	Clerk of the Court
MC2005-16	Closed	3/23/06	4/6/06	Withdrawn	Keith	Shidler	Dismissal	MIHS
MC2005-14	Closed	3/31/06	4/26/06	Withdrawn	Norma	Smith	Dismissal	MIHS
MC2005-17	Closed	3/29/06	6/8/06	Withdrawn	Robert	Anderson	Dismissal	MIHS
MC2005-18	Closed	4/12/06	7/28/06*	Withdrawn	Cecilia	Fleming	Dismissal	MIHS
MC2005-19	Closed	4/21/06	4/26/06	Withdrawn	Suzanne	Medeiros	Dismissal	MIHS
MC2005-20	Closed	5/18/06	8/8/06*	Withdrawn	Melissa	Valenzuela	Dismissal	Sheriff's Office
MC2005-21	Closed	6/7/06	12/6/06*	Denied	Steven	Gonzales	Dismissal	Clerk of the Court
MC2005-22	Closed	6/12/06	8/4/06*	Withdrawn	Cedric	Johnson	Dismissal	Public Health

*Appeals carried over to FY 2006-2007

Appeals FY 2006-2007

Any classified employee who is suspended, involuntarily demoted or dismissed may appeal to the Commission. During FY 2006-2007, the Merit Commission carried over 8 appeals filed from FY 2005-2006 and accepted 26 new appeals. Of these 34 appeals, 19 were withdrawn, 10 final orders issued, and 5 appeals were carried over to FY 2007-2008. The disciplinary actions constituted 27 dismissals, 3 demotions, and 4 suspensions.

No.	Status	Date Filed	Date Closed	Final Action	First	Last	Discipline	Agency
MC2005-02	Closed	6/21/05	8/10/06	Withdrawn	Robbin	Ortega	Dismissal	MIHS
MC2005-06	Closed	7/25/05	7/12/06	Denied	Chad	Lisk	Dismissal	Sheriff's Office
MC2005-07	Closed	9/14/05	9/13/06	Denied	Melissa	DeBartolo	Dismissal	Sheriff's Office
MC2005-15	Closed	1/31/06	7/12/06	Denied	Lorraine	Muhammad	Suspension	Clerk of the Court
MC2005-18	Closed	4/12/06	7/28/06	Withdrawn	Cecilia	Fleming	Dismissal	MIHS
MC2005-20	Closed	5/18/06	8/8/06	Withdrawn	Melissa	Valenzuela	Dismissal	Sheriff's Office
MC2005-21	Closed	6/7/06	12/6/06	Denied	Steven	Gonzales	Dismissal	Clerk of the Court
MC2005-22	Closed	6/12/06	8/4/06	Withdrawn	Cedric	Johnson	Dismissal	Public Health

Merit Commission Annual Report

MC2006-01	Closed	7/14/2006	7/30/06	Withdrawn	Robin	Veldhuizen	Dismissal	County Attorney
MC2006-02	Closed	8/22/06	1/10/07	Denied	Melvin	Eddings	Dismissal	MIHS
MC2006-03	Closed	9/27/06	12/4/06	Withdrawn	Daryl	Kraetsch	Dismissal	Sheriff's Office
MC2006-04	Closed	9/29/06	1/19/07	Withdrawn	Richard	Morquecho	Dismissal	Transportation
MC2006-05	Closed	10/19/2006	4/6/08	Withdrawn	Duane	Gilliland	Dismissal	Transportation
MC2006-06	Closed	10/31/06	12/4/06	Withdrawn	Emily	Serrano	Suspension	Human Resources
MC2006-07	Closed	11/21/2006	4/4/08	Denied	Lori	Jones	Demotion	MIHS
MC2006-08	Closed	11/21/2006	3/7/07	Denied	Josie	Felix	Demotion	MIHS
MC2006-09	Closed	11/29/2006	5/2/07	Denied	Robert	Anderson	Dismissal	MIHS
MC2006-10	Closed	12/12/2006	4/4/08	Denied	Elizabeth	Sayer	Dismissal	Human Services
MC2006-11	Closed	1/25/2007	3/29/07	Withdrawn	Eric	Archer	Dismissal	Sheriff's Office
MC2006-12	Closed	2/5/07	3/16/07	Withdrawn	Leroy	Betts	Dismissal	County Attorney
MC2006-13	Closed	2/1/2007	2/14/07	Withdrawn	Janice	Masterson	Dismissal	Library District
MC2006-14	Closed	2/6/2007	3/26/07	Withdrawn	Eva	Gutierrez	Dismissal	MIHS
MC2006-15	Closed	2/14/2007	3/12/07	Withdrawn	Sarada	Mohanty	Suspension	Assessor
MC2006-16	Closed	2/1/2007	6/6/07	Denied	Aide (Heidi)	Carrera	Suspension	Assessor
MC2006-17	Closed	2/6/07	3/29/07	Withdrawn	Miguel	Magana	Dismissal	Sheriff's Office
MC2006-18	Closed	2/16/2007	3/15/07	Withdrawn	Gloria	Mendoza	Dismissal	County Attorney
MC2006-19	Closed	2/22/07	3/15/07	Withdrawn	Amanda	Dean	Dismissal	Sheriff's Office
MC2006-20	Closed	3/1/2007	5/10/07	Withdrawn	Brian	Ferjak	Dismissal	Environmental Services
MC2006-21	Open	3/30/07	Pending	Pending	Dora	Garcia	Dismissal	MIHS
MC2006-22	Closed	04/13/2007	7/9/07	Withdrawn	John	Springfield	Dismissal	Sheriff's Office
MC2006-23	Closed	4/30/07	8/8/07	Denied	Kevin	Howell	Dismissal	Assessor
MC2006-24	Open	5/1/07	Pending	Pending	Petia	Strashilova	Dismissal	Sheriff's Office
MC2006-25	Open	5/4/2007	Pending	Pending	Eleanor	Descheeny-Joe	Dismissal	Sheriff's Office
MC2006-26	Closed	6/13/2007	6/29/07	Withdrawn	Sonja	Kautzman	Demotion	County Attorney

Merit Commission Annual Report

Hearings

Pursuant to the merit rules, an appeal may be assigned by the Commission or its chairperson to hearing officer to conduct hearings and issue Findings of Fact, Conclusions of Law and Recommendation. Maricopa County contracts with the attorneys listed below to serve as hearing officers under contract Serial 0408-RFP. Each hearing is private unless the appellant requests an open hearing. Parties may represent themselves or be represented by legal counsel or lay representatives. Technical rules of evidence do not apply to proceedings and the burden of proof is on the department which took the disciplinary action.

Douglas Erickson, Esq.

Prudence Lee, Esq.

Amy Lieberman, Esq.

Harold Merkow, Esq.

Christine Mulleneaux, Esq.

Robert Sparks, Esq.



FY 2005-2006

Hearing officers conducted six hearings, and issued six Recommended Orders containing Findings of Fact, Conclusions of Law and Recommendations for consideration by the Merit Commission. The fiscal year cost of hearings held totaled \$9,600.10. Four appeals were set for hearing but withdrawn, at a cost of \$1,274.00 bringing the total hearing officer costs to \$10,874.10.

FY 2006-2007

Hearing officers conducted 12 hearings, and issued 10 Recommended Orders containing Findings of Fact, Conclusions of Law and Recommendations for consideration by the Merit Commission. Two appeals were withdrawn after the Findings of Fact, Conclusions of Law and Recommendations were issued: Richard Morquecho v. Department of Transportation and Duane Gilliland v. Department of Transportation. The fiscal year cost of hearings held totaled \$14,389.95. Eight appeals were set for hearing but withdrawn, at a cost of \$1,463.00, bringing the total hearing officer costs to \$15,852.95.

Court Reporters

All testimony at the hearing is recorded by a court reporter and an official transcript is produced. Two court reporting firms, Griffin and Associates and AVtronics, were retained under contract Serial 04144-S to provide certified transcripts of the hearings. The cost of court reporter service totaled \$6,430.00 for FY 2005-2006 and \$10,231.25 for FY 2006-2007.

Merit Commission Annual Report

Final Orders

A majority of the Commission members present at a meeting may adopt the hearing officer's report in its entirety, or modify it, or may itself decide the case upon the record, with or without taking additional evidence. If, after the hearing, a majority of the Commission members present at the meeting where the vote is taken, determine that the action appealed from was arbitrary or taken without reasonable cause, the appeal shall be sustained; otherwise the appeal shall be dismissed. The Commission shall have the power to determine the amount of back wages and leave accruals, where appropriate, and shall do so after taking into consideration just and equitable relief to the employee and the best interests and effectiveness of the county service. The appointing authority has 35 days from the date of the decision of the Commission to either file for an administrative review or take such measures as are necessary to comply with the decision of the Commission.

FY 2005-2006

Daniel Juarez v. Sheriff's Office

On December 7, 2005, the Commission voted unanimously to reinstate the termination of Mr. Juarez as a detention officer in the Sheriff's Office and deny the appeal pursuant to the opinion issued by the Arizona Supreme Court on September 21, 2005, in Maricopa County Sheriff's Office v. Maricopa County Employee Merit System Commission and Daniel Juarez, CV-04-0046-PR and the Supreme Court's remand to the Superior Court dated October 27, 2005. The Commission determined that the decision to terminate Mr. Juarez for striking a physically restrained detainee was a violation of the Sheriff's Office procedures and his dismissal was consistent with its policy and practice.

Michael Juliano v. Parks and Recreation

On February 1, 2006, the Commission vacated the prior Commission's order of June 1, 2005, sustaining the appeal. The February 1, 2006, order once again sustained the appeal with back pay but instead imposed a 15-day suspension for the combined violations of misuse of inmate labor and for misreporting work time. The Appellant was a Parks Supervisor. Voting in favor of sustaining the appeal: Sara Vannucci, Charles Goodwin and Adelita Villegas. Voting against sustaining the appeal: Dustin Jones and Dan Reeb. The order was appealed to the Superior Court (see Court Cases).²

Priscilla Mason v. Maricopa Integrated Health Systems

On July 12, 2005, the Commission unanimously adopted the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and ordered that the appeal be denied. The Department's decision was upheld to terminate the Appellant, who was a Registered Nurse, for neglect of duty, insubordination, discourteous treatment of fellow employees, and offensive or derogatory comments.

² On 5/26/2006, the Superior Court reversed the decision and reinstated the Department's decision to dismiss Juliano, LC2005-000494-001DT.

Merit Commission Annual Report

Robbie Bowman v. Sheriff's Office

On July 12, 2005, the Commission unanimously adopted the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and ordered that the appeal be denied. The Department's decision was upheld to demote the Appellant, who was a Detention Officer, for neglect of duty and violation of policies and procedures (*Unbecoming Conduct and Public Demeanor, Incompetence/Failure to Meet Standards*).

Linda Rowles v. Maricopa Integrated Health Systems

On July 12, 2005, the Commission unanimously adopted the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and ordered that the appeal be denied. The Department's decision to terminate Appellant, who was a Dental Assistant, for incompetence, inefficiency, neglect of duty, insubordination, misuse of government property, violation of MIHS confidentiality policy, and violation of the Code of Ethics was upheld. The order was appealed to Superior Court (see Court Cases).

Jose Garcia v. Facilities Management

On November 2, 2005, the Commission unanimously adopted the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and ordered that the appeal be denied. The Department's decision was upheld to suspend the Appellant, who was a Security Guard, for abuse of leave, neglect of duty, insubordination, absence without authorized leave, and violation of policies and procedures (*Protective Services Policy and Procedure 2004.1001 Absent from Duty*).

Luis Cordova v. Sheriff's Office

On December 7, 2005, the Commission unanimously adopted the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and ordered that the appeal be denied. The Department's decision was upheld to terminate the Appellant, who was a Detention Officer, for dishonesty, charged with the commission of a criminal act, and violation of Sheriff's Office policies or procedures (*Conformance to Office Directives and Established Laws and Unbecoming Conduct and Public Demeanor*).

Virginia Mahoney v. Maricopa Integrated Health Systems

On February 1, 2006, the Commission adopted the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and ordered that the appeal be denied. The Department's decision was upheld to terminate the Appellant, who was a Registered Nurse, for incompetence, inefficiency, neglect of duty, discourteous treatment of the public and fellow employees, violation of department policy (*Postpartum Oxytocin Administration; Guidelines for caring for patients who are HIV+ and in Labor*).

Merit Commission Annual Report

Barbara Pfeil Doherty v. Maricopa Integrated Health Systems

On June 7, 2006, the Commission unanimously adopted the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and ordered that the appeal be denied. The Department's decision was upheld to terminate the Appellant, who was a Pediatric Nurse, for inability for medical reasons.

FY 2006-2007

Chad Lisk v. Sheriff's Office

On July 12, 2006, the Commission voted unanimously to adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and order that the appeal be denied. The Department's decision was upheld to terminate the Appellant, who was a Deputy Sheriff, for incompetence, dishonesty, commission or conviction of a felony or of a misdemeanor, and neglect of duty.

Lorraine Muhammad v. Clerk of the Court

On July 12, 2006, the Commission voted unanimously to adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and order that the appeal be denied. The Department's decision was upheld to suspend the Appellant, who was a Courtroom Clerk, for incompetency, inefficiency, and violation of county or department policies or procedures.

Melissa DeBartolo v. Sheriff's Office

On September 14, 2006, the Commission voted unanimously to adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and order that the appeal be denied. The Department's decision was upheld to terminate the Appellant, who was a Detention Officer, for neglect of duty, insubordination, discourteous treatment of the public and fellow employees and department's code of conduct policy.

Steven Gonzales v. Clerk of the Court

On December 6, 2006, the Commission voted unanimously to adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and order that the appeal be denied. The Department's decision was upheld to terminate the Appellant, who was a Court Operations Representative, for dishonesty, conviction of a criminal act which affects the employee's suitability for continued employment and violation of county or departmental policies or procedures.

Merit Commission Annual Report

Melvin Eddings v. MIHS

On January 10, 2007, the Commission unanimously to adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and order that the appeal be denied. The Department's decision was upheld to terminate the Appellant, who was a Psychiatric Technician, for neglect of duty, discourteous treatment of the public or fellow employees, violation of department policy (29045 Ethics in Psychiatric Services), and violation of the Code of Ethics.

Josie Felix vs. MIHS

On March 7, 2007, the Commission voted unanimously to adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and order that the appeal be denied. The Department's decision was upheld to demote the Appellant, who was an Outpatient Coder, for incompetency.

Lori Jones v. MIHS

On April 4, 2007, the Commission voted unanimously to adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and order that the appeal be denied. The Department's decision was upheld to demote the Appellant, who was an Outpatient Coder, for incompetency.

Elizabeth Sayer v. Human Services

On April 4, 2006, the Commission voted unanimously to adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and order that the appeal be denied. The Department's decision was upheld to terminate the Appellant, who was a Case Manager, for inability to work for medical reasons.

Robert Anderson vs. MIHS

On May 2, 2007, the Commission voted unanimously to adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and order that the appeal be denied. The Department's decision was upheld to terminate the Appellant, who was a Psychiatric Technician, for incompetency, neglect of duty, violation of Department Policy (Operational Expectations), and violation of the Code of Ethics.

Aide (Heidi) Carrera v. Assessor

On June 6, 2007, the Commission voted unanimously to adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation and order that the appeal be denied. The Department's decision was upheld to suspend the Appellant, who was a Programmer Analyst II, for dishonesty, neglect of duty, and inefficiency.

Merit Commission Annual Report



Law Enforcement Officers Merit System Commission

FY 2005-2006

On July 12, 2005, the Commission considered a request by the Deputy Law Enforcement Association to adopt rules to hear appeals concerning employee grievances. The Commission voted unanimously to reject the request because it lacked authority to hear grievances.

The Commission also approved administrative items pertaining to the promotional process for Sergeant, Lieutenant, and Captain including the item bank, job announcements, exam monitors, oral board panels, and final registers for the Sheriff's Office Sergeant, Lieutenant and Captain sworn officer recruitments.

Michael Hopper v. Sheriff's Office

During the course of approving the Sergeant's promotional process, the Commission considered a request for administrative review filed by Michael Hopper, Deputy Sheriff. He objected to the removal of test Question No. 55 from the written examination. The Sheriff's Office asked the Human Resources Department to remove the question because of confusion and ambiguity between the test question and the Sheriff's Office study guide. On June 7, 2006, the Commission voted unanimously, pursuant to Law Enforcement Rule 9.09B, that a manifest error was found in the testing procedure and therefore eliminated Question No. 55 from the scoring and rating of the examination. The Commission also directed that all future corrections to the examination process, including elimination of test questions, shall be brought to the Commission for approval.

FY 2006-2007

On June 7, 2007, the Commission approved the Sworn Sergeant promotional process including the scoring weights, the written examination item bank, and the oral board panel members pursuant to Rule 9.04 Nature of Examinations(B).

Merit Commission Annual Report

Merit Rule Amendments

FY 2005-2006

At the recommendation of the Commission, the Board of Supervisors approved two amendments to the Law Enforcement Officers Merit System Rules and the Board Resolution. These changes were enacted to streamline the appeal process and correct ambiguities.

Law Enforcement Officers Merit System Resolution Section 9

On January 4, 2006, the Board of Supervisors approved an amendment to Section 9 adding language designating the Commission as the independent personnel board to hear whistleblower complaints under A.R.S. §38-532.

Law Enforcement Officer Merit System Rule 10.03A and 11.01

On December 21, 2005, the Board of Supervisors approved an amendment to 10.03.A. Dismissals requiring appeals be filed not later than ten business days following the date of receipt of a disciplinary notice, rather than ten calendar day. On March 15, 2006, the Board approved an amendment to Rule 11.01 Matters Which May Be Appealed, to conform to the ten business day filing requirement.

FY 2006-2007

At the recommendation of the Commission, the Board of Supervisors approved one amendment to the Employee Merit System Rules. The amendment was necessary to comply with A.R.S. §16-402.

Employee Merit System Rule 12.07.B(3)

On November 1, 2006, Board of Supervisors and the Employee Merit Commission approved an amendment to Employee Merit System Rules 12.07.B(3) Other Leaves of Absence, Civic Duty Pay and Maricopa County Employee Leave Plan Section VIII.B(3) Other Leaves of Absence, Civic Duty Leave, to allow the absence with pay for voting of up to three hours, rather than two hours, or work time, at the beginning or end of a shift when an employee's scheduled shift does not allow a three consecutive hour period, rather than a two consecutive hour period, in which to vote. A.R.S. 16-402 states: "Application shall be made for such absence prior to the day of the election, and the employer may specify the hours during which the employee may absent himself." In 1997, the Board of Supervisors temporarily waived Rule 13 (Leave Plan) in conjunction with the Maricopa County Leave Plan so the Law Enforcement Officers Merit System Rules did not require an amendment.

Merit Commission Annual Report

Whistleblower Complaints

The Commission acts as the independent personnel board to Whistleblower complaints pursuant to A.R.S. § 38-352. No complaints were filed in FY 2005-2006. During FY 2006-2007, three complaints were filed. Of these complaints, one was withdrawn, one is pending, and one final order was issued.

No.	Status	Date Filed	Date Closed	Final Action	First	Last	Discipline	Agency
WB2006-01	Closed	11/7/2006	4/4/2008	Denied	Philip	Keen	Whistleblower	County Manager
WB2006-02	Closed	3/1/2007	5/10/2007	Withdrawn	Brian	Ferjak	Whistleblower	Environmental Services
WB2006-03	Pending	6/20/2007	Pending	Pending	Gina	Pollaro	Whistleblower	Public Health

Final Order

Philip Keen v. County Manager

On April 4, 2007, the Commission voted unanimously to adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation, and ordered that the complaint be denied because the complainant had a pending lawsuit in Maricopa County Superior Court which requires a judge to consider and determine the validity of the complaint.

Legal Counsel

Outside legal counsel is retained to aid the Commission in the conduct of the meetings and to represent the Commission in response to legal challenges. The contract is provided under Bid Serial 05041-ROQ.

In FY 2005-2006 and one-half FY 2006-2007 (July 2007 through December 2007), the Commission was represented by Michael Sillyman, Esq., with the Law Offices of Kutak Rock, LLP, 8601 North Scottsdale Road, Suite 300, Scottsdale, Arizona 85253-2742. The FY 2005-2006 cost for legal services totaled \$108,826.15 and \$18,795.50 in FY 2006-2007.

During the last half of FY 2006-2007 (January 2007 through June 2007), the Commission was represented by Timothy J. Casey, Esq., with the Law Office of Schmitt, Schneck, Smyth & Herrod, P.C., from January 2007, through June 2007. The FY 2006-2007 cost for legal services totaled \$7,133.31.

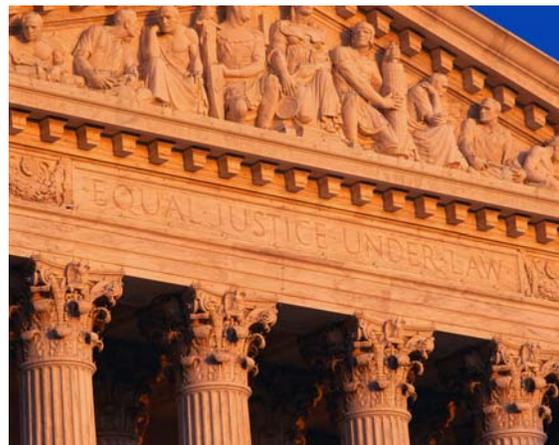
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Court Cases

Administrative review of Commission orders are subject to review under A.R.S. § 12-901. Either party to an appeal may file for a higher level of review with the State court system, beginning with the Maricopa County Superior Court.

FY 2005-2006

Several landmark cases were decided by the court system this year which further defined the authority of the Commission.



Maricopa County Sheriff's Office v. Maricopa County Employee Merit System Commission; Daniel Juarez

In September 2005, the Arizona Supreme Court issued an opinion in the above referenced case. The opinion disapproved of the "shocking to one's sense of fairness" standard of review which it found was inconsistent with Merit Rule 10.16 and the "arbitrary or taken without reasonable cause" standard. The Court held that the Commission could not substitute its judgment for that of the appointing authority in determining the appropriate level of discipline as long as there is evidence that a violation had occurred. The Court further held that the Commission's authority is limited in altering the appointing authorities' decision only when the punishment is extraordinarily disproportionate, or where similarly situated employees received differing sanctions for the same offense. The Board of Supervisors affirmed the decision to utilize the *Arbitrary or taken without Reasonable Case* standard of review in a resolution unanimously adopted on March 1, 2006. On December 7, 2005, the Commission voted unanimously to reinstate the dismissal of Daniel Juarez and deny the appeal.

Michael Juliano v. Parks and Recreation

On June 10, 2003, the Superior Court received a complaint for Administrative Review of the Commission's final order sustaining the appeal and reinstating Juliano with back pay. On March 14, 2005, the Superior Court issued an order vacating the Commission's order and reinstating the Department's termination decision. Juliano and the Commission filed an appeal with the Court of Appeals. The Court of Appeals issued an order remanding the case back to the Commission to determine if dismissal was shocking to one's sense of fairness based on the two allegations that were supported by the evidence. The Court of Appeals further held that the Commission erred when it revoked all sanctions. On remand, the Commission found that Juliano's termination was arbitrary, without reasonable cause and shocking to one's sense of fairness and ordered that he be suspended for fifteen days and ordered back pay. The Department filed an appeal with the Superior Court. While the appeal was pending, the Arizona Supreme Court issued its decision in *Maricopa County Sheriff's Office v. Maricopa County Employee Merit System Commission (2005) (Juarez)*. Juarez clarified the Commission's role and the matter was remanded back to the

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Commission to reconsider its decision in light of the standards articulated in *Juarez*. On February 1, 2006, by a vote of three to two, the Commission again imposed a fifteen day suspension, concluding that Juliano's dismissal was arbitrary and without reasonable cause. On May 26, 2005, the Superior Court concluded that the Commission on remand did not faithfully follow the mandates of *Juarez* and substituted its own subjective belief regarding the severity of disciplinary action to be imposed and ordered reversing the decision of the Commission and reinstating the Department's decision to dismiss Juliano. No further appeals are pending.

Linda Rowles v. Maricopa Integrated Health Systems

On August 17, 2005, the Maricopa County Superior Court received a complaint, LC2005-000603-001DT, for Administrative Review of the Commission's final order of July 12, 2005, denying the appeal. On February 12, 2006, the Superior Court issued an order affirming the decision of the Commission and denying plaintiff's request for relief.

Maricopa County Department of Transportation v. Maricopa County Employee Merit System Commission; Lionel Howard

On June 2, 2005, the Maricopa County Superior Court received a complaint, LC2005-000396-001DT, for Administrative Review of the Commission's final order of May 4, 2005, sustaining the appeal of Howard and reversing the Department's demotion. On April 3, 2006, the Superior Court issued an order reversing the decision of the Commission and dismissing the appeal. The Court determined that the Commission's 2-2 vote on March 3, 2005, constituted dismissal of the appeal and the reconsideration vote of the Commission on April 6, 2005, to sustain the appeal was unlawful.

FY 2006-2007

Maricopa County Flood Control District v. Maricopa County Employee Merit System Commission; Alphonso DePascal

The Maricopa County Superior Court received a timely complaint, L2005-000357-001DT, for Administrative Review of the Commission's final order of May 4, 2005, sustaining the appeal of DePascal finding that the District had failed to prove any of its allegations for violations of Merit Rules including incompetency, neglect of duty, dishonesty, discourteous treatment of the public or fellow employees, and misuse of government property. The Commission ordered the District to reinstate DePascal and to reimburse him for his lost salary less any earnings, from the date of his termination to the date of his reinstatement.

While the appeal was pending, the Arizona Supreme Court issued its decision in the *Juarez* case which clarified the Commission's role. Based on the parties' stipulation, the matter was remanded to the Commission so that it could reconsider its decision in light of *Juarez*. On remand, the Commission deleted references to the "shocking to one's sense of fairness" standard, but reaffirmed its other findings and orders. On November 2, 2006, the court concluded that it could not find the Commission's decision to be "unreasoning action, without consideration and in disregard for facts and circumstance" and that the records did not establish that the Commission acted illegally, arbitrarily, capriciously, or in abuse of its discretion and affirmed the decision of the Commission.

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