

STATE OF GEORGIA

COUNTY OF CLAYTON

ORDINANCE NO. 2021- 97

AN ORDINANCE TO AMEND THE CLAYTON COUNTY CIVIL SERVICE RULES AND REGULATIONS, AS AMENDED, SPECIFICALLY TO AMEND RULES 11.302 “APPEAL PROCEDURES”, 11.307 “PRESIDING OFFICER OF APPEAL HEARING”, 11.309 “APPEAL HEARING PROCEDURES”, 11.310 “FINAL DECISION OF THE BOARD ON AN APPEAL” AND TO INSERT IN LIEU THEREOF NEW LANGUAGE AS PROVIDED HEREIN; TO REPEAL ANY AND ALL CONFLICTING LAWS, ORDINANCES, RESOLUTIONS, RULES AND REGULATIONS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE OF THIS ORDINANCE; AND FOR OTHER PURPOSES.

WHEREAS, the Board of Commissioners adopted certain Civil Services Rules and Regulations; and

WHEREAS, the Board of Commissioners desires to clarify language in Civil Service Rules 11.302, 11.307, 11.309 and 11.310 to reflect the operating practices of the County; and

WHEREAS, the amendment of these rules will clarify that the Hearing Officer shall be the presiding officer, render final decisions, and follow general appeal hearing procedures when assigned to cases in lieu of the Civil Service Board; and

WHEREAS, the Board of Commissioners, with the approval of the Clayton County Civil Service Board, desires to amend said Rules and Regulations with regards to “Appeal Procedures”, “Presiding Officer of Appeal Hearing”, “Appeal Hearing Procedures, and “Final Decision of Board on An Appeal.”

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF
CLAYTON COUNTY, GEORGIA, AND IT IS HEREBY ORDAINED

Section 1. Clayton County Civil Service Rule 11.302 "Appeal Procedures"
subsection (c) is hereby deleted in its entirety and substituted with a new subsection (c) to
read as follows:

(c) The Personnel Director shall deny the filing of untimely appeals. No untimely appeal may be placed on a Civil Service Board Agenda. A written report of any appeal so denied shall be made by the Personnel Director to the Civil Service Board at its next meeting after the untimely filing.

Section 2. Clayton County Civil Service Rule 11.307 "Presiding Officer of Appeal
Hearing" is hereby deleted in its entirety and inserted in lieu thereof language to read as
follows:

11.307 Presiding Officer of Appeal Hearing: *The Chairman of the Board, or the Hearing Officer assigned to cases in accordance with Civil Service Rule 4.6.1(c), shall be the presiding officer.*

Section 3. Clayton County Civil Service Rule 11.309 "Appeal Hearing Procedures"
is hereby deleted in its entirety and inserted in lieu thereof language to read as follows:

- 11.309 Appeal Hearing Procedures:** *In the hearing of an appeal, the following general procedure shall be followed:*
- (a) The presiding officer or hearing officer shall read or cause to be read a description of charges and/or actions taken which have prompted the appeal. He/she shall then read or cause to be read the letter of appeal as filed with the Personnel Director.*
 - (b) The Board or hearing officer shall hear the evidence upon the charges and specification as filed by the Department Head and shall not consider any evidence beyond the scope of said charges.*
 - (c) The order of proof shall be as follows: The Department Head (or his/her representative) shall present his/her evidence to support the charges; the appellant shall then present his/her evidence in support of his/her appeal or to rebut the evidence of the Department Head. The evidence of each party may be supported by pertinent documents and/or testimony.*
 - (d) The appellant and/or the Department Head may be represented by counsel and may present, examine, and cross-examine witnesses. In addition, the Board members or hearing officer may interrogate both parties and all witnesses. If necessary, all witnesses may be placed under oath. The department official, the appellant, or the legal counsel of either party may, as necessary, request the Board or Hearing Officer to subpoena witnesses to the case.*

- (e) *With regard to the granting of continuances in any appeal pending before the Board or Hearing Officer, the following rules shall apply:*
- (1) *The Board or Hearing Officer will consider requests for continuances on such grounds as provided by the local rules of the Clayton Superior Court, and as otherwise permitted by law. It shall be the exception that continuances are granted for other reasons.*
 - (2) *Where legal counsel has filed a written notice of appearance, continuances may be granted if counsel is actually engaged in the trial of a case in a court of record when the appeal is scheduled for hearing, and provided counsel notifies the Board or Hearing Officer and the opposing counsel before the appeal is called for hearing. If such notice is not received, the appeal may proceed without counsel.*
 - (3) *Where legal counsel has filed a written notice of appearance, continuances may be granted if counsel has a case on the published calendar of the State or Federal Appellate Courts and expecting to argue same and provided notice as above stated is given.*
 - (4) *When a continuance is requested by the employee and granted by the Board or Hearing Officer, the final determination of the Board shall take into account the length of delay, when appropriate. Provided further, if a monetary award is authorized by the Board or Hearing Officer, the award shall be adjusted to equal such amount the employee would have been entitled to without the delay.*

Section 4. Clayton County Civil Service Rule 11.310 "Final Decision of Board on An Appeal" is hereby deleted in its entirety and inserted in lieu thereof language to read as follows:

11.310 Final Decision of the Board or Hearing Officer on an Appeal: *After due consideration, the Board or Hearing Officer shall render its judgment concerning each appeal. Written notification of such judgment shall be supplied to all concerned parties. The decision of the Board or Hearing Officer in these matters shall be considered final and binding upon the County and must be rendered within forty-five (45) days of the date of the hearing of the appeal. The Board or Hearing Officer shall approve or disapprove the action taken by the Department Head or official and may modify the discipline in its findings so as to lessen but not increase same. The Board or Hearing Officer may concur with the decision to suspend or dismiss, or it may reinstate the employee to his/her position without loss of pay or status. In the case of other types of appeals the Board or Hearing Officer shall, when finding in the appellant's favor, determine the nature and extent of required corrective action. It shall then direct that such action be taken, and shall be supported*

by the Personnel Director and the County Commissioners in the enforcement of its directives.

Section 5. All Ordinances, Resolutions, Rules and Regulations, or parts thereof which conflict with this Ordinance are hereby repealed.

Section 6. It is declared to be the intention of the Board of Commissioners that all sections and paragraphs of this Ordinance are or were, upon their enactment, believed to be fully valid, enforceable and constitutional. To the greatest extent allowed by law, each and every paragraph herein is severable from the other. In the event that any portion of this Ordinance shall be declared invalid, unconstitutional or otherwise unenforceable by valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners that the remaining portions of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 7. This Ordinance shall be effective on the date of its approval by the Board of Commissioners.

SO RESOLVED, this the 4 day of May, 2021.

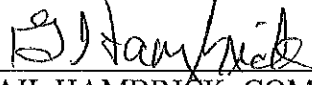
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