

STATE OF GEORGIA

COUNTY OF CLAYTON

ORDINANCE NO. 2020-91

AN ORDINANCE TO AMEND THE CODE OF CLAYTON COUNTY, GEORGIA, AS AMENDED, SPECIFICALLY TO AMEND PART I ARTICLE IV "CIVIL SERVICE SYSTEM" TO ESTABLISH THE AUTHORITY FOR HEARING OFFICERS TO REVIEW APPEALS OF DISCIPLINARY ACTIONS; 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 has adopted the Clayton County Civil Service System pursuant to Article VII, Section IV, Paragraph I of the Georgia Constitution and certain House Resolutions pertaining thereto; and

WHEREAS, the Board of Commissioners desires to amend the Civil Service System ordinances to authorize hearing officers to, among other things, hear appeals by persons employed in several departments and offices of the County included in the civil service system who claim to have been improperly suspended, demoted or dismissed; and

WHEREAS, these amendments attempt to decrease conflicts and allow appeals to move expeditiously towards resolution at a mutual benefit to the aggrieved employee and County; and

WHEREAS, pursuant to the authority vested in the Board of Commissioners by state law, with acknowledgement by the Clayton County Civil Service Board, the Board desires to amend the various sections of Article IV "Civil Service System" as set forth below.

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

Section 1. The Code of Clayton County, Georgia, as amended, is hereby further amended by deleting Part I, Article IV "Civil Service System," section 4-3 "Civil service board established; composition; qualifications; requirements" in its entirety and replacing it with a new section 4-3 to read as follows:

Sec. 4-3. - Civil service board established; hearing officer established; composition; qualifications; requirements.

(a) There is established a board for the civil service system to be known as the civil service board. The board shall be composed of five members who currently are and have been residents of Clayton County for two years or more preceding their appointment and who are high school graduates, registered voters, and current on all tax payments at the time of appointment. No member of the board shall hold any elected political office of Clayton County or be an employee of Clayton County when appointed or while serving on the board. Each board member shall attend annually at least one course of study or seminar dealing with personnel matters offered by the Clayton County Personnel Department, the Georgia Local Government Personnel Association or such other similar organization authorized to conduct continuing personnel education.

(b) For the review of appeals pertaining to disciplinary actions (dismissal, demotion or suspension) of permanent classified employees for cause, the chairman of the Board of Commissioners shall establish a pool of persons eligible to serve as hearing officers. The procedure for appointing a hearing officer to hear the review of appeals pertaining to disciplinary actions shall be established by the chairman of the Board of Commissioners. In no event shall the hearing officer be a current official or employee of Clayton County or have been an official or employee of Clayton County within ten years prior to serving as a hearing officer. In the discretion of the chairman of the Board of Commissioners, the approval of the board of commissioners may be sought for any and all such pool of persons.

(c) A person shall be eligible for appointment as a hearing officer if such person meets the qualifications of subparagraphs (1) or (2) below:

- (1) Baccalaureate degree in personnel administration, labor relations, public administration, political science or business administration, and a minimum of three (3) years' experience in investigating or reviewing employment grievances or similar complaints; or*
- (2) Admitted to the practice of law in the State of Georgia and an active member of the State Bar of Georgia, plus a minimum of three (3) years' experience in the practice of law.*

Section 2. The Code of Clayton County, Georgia, as amended, is hereby further amended by deleting Part I, Article IV "Civil Service System," section 4-6 "Compensation" in its entirety and replacing it with a new section 4-6 to read as follows:

Sec. 4-6. - Compensation.

(a) The members of the board shall receive such compensation for attending meetings of the board as provided by resolution of the governing authority of Clayton County. Such compensation shall be paid from the treasury of Clayton County.

(b) Hearing officers shall receive such compensation for conducting hearings as provided by resolution of the governing authority of Clayton County. Such compensation shall be paid from the treasury of Clayton County.

Section 3. The Code of Clayton County, Georgia, as amended, is hereby further amended by adding a new subsection 4-6.1 entitled "Conflict of Interest" to Part I, Article IV "Civil Service System," to read as follows:

Sec. 4-6.1. – Conflict of interest.

(a) (1) An actual conflict of interest shall arise when (A) an appellant worked under a board member's direct or indirect supervision, or (B) the Board member is related by blood or marriage to the appellant or member of the appellant's immediate family or household; and

(2) An apparent conflict of interest shall arise when a reasonable person with knowledge of the relevant facts would conclude from the circumstances that personal, financial or other considerations have the potential to compromise or bias professional judgment and objectivity between (A) an individual board member and the County or elected official (B) an individual board member and the appellant.

(b) If a conflict arises pursuant to subsection (a) above, the board member with whom there is a conflict of interest shall not participate in reviewing the merits of the appeal pertaining to disciplinary actions.

(c) When either the County or appellant cannot agree on whether there is a conflict arising pursuant to subsection (a) above, the issue of whether a conflict exists shall be transferred to a hearing officer. The burden of establishing a conflict of interest between a board member or members and a party to an appeal pertaining to a disciplinary action shall fall on the party raising the issue. The party raising the issue of a conflict of interest may present argument and evidence before the hearing officer in support of the issue and the party opposing the issue may present rebuttal argument and evidence. The hearing officer shall determine whether an actual or apparent conflict of interest exists. If a conflict of interest exists between a majority of the civil service board and either the appellant or the County, the hearing officer has jurisdiction to hear the case. If the hearing officer does not find that there is a conflict of interest under this section, then the matter shall be

transferred back to the Civil Service Board for review of the merits of the appeal pertaining to the disciplinary action.

Section 4. The Code of Clayton County, Georgia, as amended, is hereby further amended by deleting Part I, Article IV "Civil Service System," section 4-7 "Duties of civil service board" in its entirety and replacing it with a new section 4-7 to read as follows:

Sec. 4-7. - Duties of civil service board and hearing officers.

(a) The duties and functions of the civil service board shall be as hereafter provided:

(1) In accordance with civil service system rules and regulations, the board shall conduct hearings and render decisions solely on appeals by persons employed in the several departments and offices included in the civil service system who claim to have been improperly suspended, demoted, or dismissed.

(2) In accordance with civil service system rules and regulations, the board shall conduct informal grievance hearings and render advisory opinions and recommendations on any matter properly brought before the board.

(3) The board shall be authorized to make nonbinding recommendations relating to amendments, additions, and deletions to civil service system rules and regulations from time to time.

(4) In the event that a conflict of interest exists between a majority of the civil service board and either the appellant or the County, the appellant or County may elect to proceed with an appeal by hearing officer pursuant to subsection (b) of this section. In the event either the County or the appellant elect to proceed before a hearing officer, that election shall be binding on all parties.

(b) In accordance with civil service system rules and regulations, the hearing officer shall conduct hearings and render decisions solely on appeals by persons employed in the several departments and offices included in the civil service system who claim to have been improperly suspended, demoted, or dismissed

Section 5. The Code of Clayton County, Georgia, as amended, is hereby further amended by deleting Part I, Article IV "Civil Service System," section 4-8 "Location of meetings; number of required meetings; minutes and records" in its entirety and replacing it with a new section 4-8 to read as follows:

Sec. 4-8. - Location of meetings; number of required meetings; minutes and records.

All meetings of the board and hearings conducted by the hearing officer shall be held in offices provided therefor by the governing authority of Clayton County and shall be open to the public as required by Georgia law. The board shall hold regular meetings once a month, provided there is business which needs to be conducted, and additional meetings as may be required for the proper discharge of its duties. The hearing officer shall conduct hearings as necessary for the proper discharge of his or her duties. All meetings and hearings shall commence at such time and on such date as the board or hearing officer may designate and continue thereafter until all business has been completed or the meeting or hearing is otherwise adjourned. The board or hearing officer shall keep and maintain an accurate record of minutes of all meetings or hearings as proscribed by Georgia law and shall be furnished clerical assistance by the governing authority of Clayton County to meet and maintain their minutes and records

Section 6. The Code of Clayton County, Georgia, as amended, is hereby further amended by deleting Part I, Article IV "Civil Service System," section 4-9 "Cause; rights of appeal; enforcement" in its entirety and replacing it with a new section 4-9 to read as follows:

Sec. 4-9. - Cause; rights of appeal; enforcement.

No regular status employee of any department or office of the county which has been brought under the civil service system may be suspended, demoted, or dismissed from employment in the department or office except for good cause and in accordance with civil service system rules and regulations. Any employee who is suspended, demoted, or dismissed shall have the right of appeal pursuant to the terms of the civil service system rules and regulations; provided, however, that this section shall not apply to persons dismissed from any department or office due to curtailment of funds, reduction in staff, or abolition of the job held by such employee. Decisions of the board or hearing officer rendered in accordance with the rules and regulations of the civil service system and which are not contrary to public policy shall be enforced by the governing authority, departments thereof, and elected officials of Clayton County.

Section 7. The Code of Clayton County, Georgia, as amended, is hereby further amended by deleting Part I, Article IV "Civil Service System," section 4-11 "Judicial review" in its entirety and replacing it with a new section 4-11 to read as follows:

Sec. 4-11. - Judicial review.

Any person aggrieved by a final decision of the board or hearing officer is entitled to judicial review by certiorari to the Superior Court of Clayton County

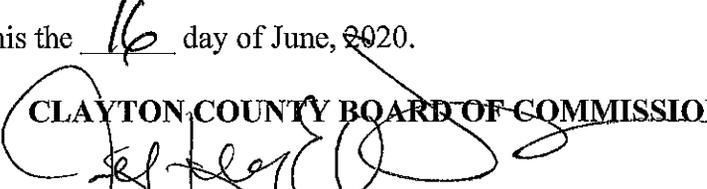
Section 8. All Ordinances, Resolutions, Rules and Regulations, or parts thereof which conflict with this Ordinance are hereby repealed.

Section 9. 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. 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 10. This Ordinance shall be effective on July 1, 2020.

SO ORDAINED, this the 16 day of June, 2020.

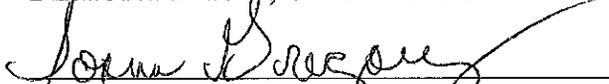
CLAYTON COUNTY BOARD OF COMMISSIONERS



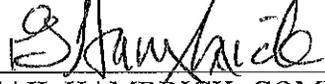
JEFFREY E. TURNER, CHAIRMAN



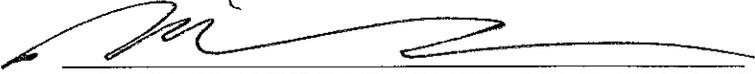
DEMONT DAVIS, VICE CHAIRMAN



SONNA GREGORY, COMMISSIONER

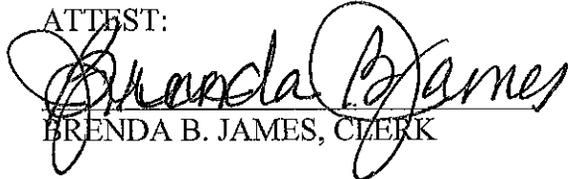


GAIL HAMBRICK, COMMISSIONER



FELICIA FRANKLIN WARNER, COMMISSIONER

ATTEST:



BRENDA B. JAMES, CLERK