

**CHIEF OF SUPPORT SERVICES
EMPLOYEE RELATIONS ADMINISTRATOR**

NOTICE
2.1

September 15, 2003

TO: All Concerned Personnel
FROM: Employee Relations Administrator

RECEIVED
SEP 23 2003
**EMPLOYEE
RELATIONS GROUP**

SUBJECT: DETECTIVE PROMOTION AND WHEEL TRANSFER REVISED

The Department has revised the policy for "wheel" transfers of all Detectives-I. Effective immediately, Detectives-I will no longer be automatically transferred ("wheeled") out of their original division of assignment.


Employees promoted to Detective-I must stay in their original division of assignment for 18 months (20 DPs). After that, the employee is permitted to remain in the division. The employee may request transfer to another division any time after having spent 20 DPs in the original division of assignment. Employees may submit requests for transfer upon completing one year (13 DPs) in their original division of assignment. Employees submitting a request for transfer will be put on a waiting list, but will not be eligible to transfer until they have completed the required 18 months (20 DPs) in their original division of assignment.

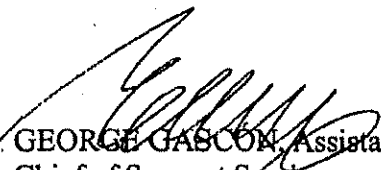
EXCEPTION: ADVANCED PAYGRADE POSITION OR COVETED ASSIGNMENT: A Detective-I is eligible for selection to an advanced paygrade position or coveted assignment after 12 months of service as a Detective-I. If a Detective-I is selected for such a position/assignment after 12 months of service, he or she is not required to remain in the original division of assignment and may accept an advanced paygrade or coveted assignment in another division.

Any exceptions to this policy shall be based on the operational needs of the Department, subject to the approval of the Chief of Police.

Questions concerning this policy should be directed to the Employee Relations Administrator, at (213) 485-6552.

APPROVED:


MARK R. PEREZ, Commander
Employee Relations Administrator


GEORGE GASCON, Assistant Chief
Chief of Support Services

Distribution "B"

OFFICE OF THE CHIEF OF POLICE

ADMINISTRATIVE ORDER NO. 6

August 25, 2003

SUBJECT: ADMINISTRATIVE APPEAL HEARING PROCESS FOR MATTERS INVOLVING REASSIGNMENT FROM ADVANCED PAYGRADE POSITIONS OR DESELECTION FROM BONUS POSITIONS FOR LIEUTENANTS AND BELOW—REVISED

PURPOSE: In accordance with recent Appellate Court law, the Department has revised the administrative appeal hearing process outlined in *Administrative Order 15, 2000*, for matters involving reassignment of a sworn employee from the rank of Lieutenant or below from an advanced paygrade position or deselection from a bonus position. All other provisions of *Administrative Order 15* for matters other than a reassignment from an advanced paygrade position or a deselection from a bonus position are unaffected by this Order.

PROCEDURE:

- I. MATTERS SUBJECT TO PAYGRADE/BONUS ADMINISTRATIVE APPEAL HEARING.** A sworn non-probationary employee from the rank of Lieutenant or below may administratively appeal a reassignment from an advanced paygrade position or a deselection from a bonus position.
- II. ADMINISTRATIVE APPEAL HEARING REQUEST.** An employee electing to administratively appeal a reassignment from an advanced paygrade position or a deselection from a bonus position shall submit an Administrative Appeal, Form 1.84, to the Employee Relations Administrator, within 20 calendar days after the Transfer Order reporting the change in paygrade or bonus status is published or the effective date of the employee's change in paygrade or bonus status, whichever is later. If the employee fails to request an Administrative Appeal Hearing within the specified time, the Department's action to reassign the employee to a lower paygrade or deselect the employee from a bonus position shall be final. However, the 20 day period shall be tolled during any period when an employee is on an authorized leave of absence, is away from work—sick or injured, or is otherwise reasonably and legitimately absent from duty when the Transfer Order is published. The time period shall resume when the employee returns to duty or is otherwise notified of the action taken on the Transfer Order.
- III. ADMINISTRATIVE APPEAL HEARING PURPOSE.** The purpose of an Administrative Appeal Hearing for a reassignment from an advanced paygrade position or a deselection from a bonus

position is to ascertain whether there is sufficient cause to support the employee's reassignment from an advanced paygrade position or deselection from a bonus position as set forth in the Department Manual. The Department must present a case and shall bear the burden of proving the grounds for the reassignment from an advanced paygrade position or deselection from a bonus position by a preponderance of the evidence. The employee shall have the right to appear in person at the hearing and present evidence specifically related to the purpose of the hearing.

During the hearing, both the Department and the employee shall have the right to present witnesses, exhibits, and arguments to the hearing officer, to which the other party shall be entitled to respond.

IV. CALCULATION OF TIME PERIODS. All time periods shall be calculated in calendar days, except for the selection of the Hearing Officer. When the last calendar day falls on a weekend or City holiday, the time period shall extend to the next business day.

V. REPRESENTATION. In accordance with Section 10.0 of Memorandum of Understanding No. 24, a sworn employee from the rank of Lieutenant or below has the right to an Administrative Appeal Representative from the rank of Lieutenant or below or legal counsel, or both. Legal counsel is at the employee's expense.

VI. SELECTION OF A HEARING OFFICER. The hearing officer shall be a sworn member of the Department from the ranks of Captain and Commander, who shall be selected within five business days of the date the employee requests a hearing. In selecting a hearing officer, the employee shall draw three names of eligible members. The Department representative and the employee shall each strike one of the three names selected. The Department representative shall strike the first name and the employee shall strike the second name. The remaining member shall serve as the hearing officer.

The hearing shall be a primary duty assignment for the hearing officer. The hearing officer shall resolve any initial scheduling conflicts, except scheduled Boards of Rights, in favor of an Administrative Appeal Hearing. Once a hearing officer is scheduled to conduct an Administrative Appeal Hearing, subsequent selection as a member of a Board of Rights shall not cause the

rescheduling of the Administrative Appeal Hearing. Those ineligible to serve as hearing officers are the following:

- * Captains and Commanders who are or were in the employee's chain-of-command from the time of the incident through the date the hearing begins;
- * Those who are prejudiced through actual contact with the matter;
- * Those disqualified by reason of being a material witness to the matter;
- * Those with a conflict of interests;
- * The Employee Relations Administrator; and,
- * Those who are exempt from Boards of Rights as outlined in the Board of Rights Manual.

Note: Disputes regarding the exclusion of a hearing officer for any of the above reasons that cannot be resolved by the Employee Relations Administrator shall be submitted to the Chief of Support Services for resolution, whose decision shall be final.

- VII. HEARING OFFICER'S RESPONSIBILITY.** The hearing officer shall convene the hearing in no less than 15 days nor more than 30 days from the date of his/her selection. The hearing officer may continue the proceedings, once commenced, for periods up to 21 days. If the hearing officer, due to illness or pre-scheduled vacation, is unable to begin the hearing within 30 days, the employee appealing may either select another hearing officer by starting the selection process anew or may waive the 30-day period to allow the hearing officer to return. If the employee opts to waive the 30-day period, the hearing officer, upon return from illness or vacation, shall commence the hearing within 30 days.

The hearing officer may examine witnesses testifying for the Department or employee, if any are presented. However, the hearing officer shall not consider issues or matters that were not originally stated at the time the Administrative Appeal was filed or matters that are beyond the scope of the Administrative Appeal Hearing purpose.

The formal rules of evidence do not apply, although the hearing officer shall have discretion to exclude evidence that is irrelevant or the presentation of which will otherwise consume undue time.

- VIII. DISCOVERY.** Discovery shall consist of copies of all reports and materials used to substantiate the employee's

reassignment from an advanced paygrade position or deselection from a bonus position. Discovery shall be provided as soon as practicable after selection of a hearing officer, but no later than 14 days prior to the date the hearing commences.

- IX. SUBPOENAS.** Subpoenas shall be issued pursuant to the authority provided by the Los Angeles City Charter. Subpoenas may be quashed by written motion to the hearing officer, who will decide the issue.
- X. WITNESSES.** The Department and the employee have the right to call and cross-examine witnesses, whose testimony shall be given under oath. A complete list of witnesses to be called shall be delivered to the other party no later than seven days before the hearing, except rebuttal witnesses. Department employees called as witnesses shall be served with a Notice of Hearing, and witnesses other than Department employees shall be served by subpoena. The Department representative shall be responsible for obtaining all subpoenas. Each party is responsible to serve their own subpoenas.
- XI. RECORD OF HEARINGS.** All testimony shall be given under oath and reported by a stenographer for possible transcription. Upon the employee's prepayment of a preparation fee, the employee shall be entitled to a certified copy of the transcript. However, the employee will be given a free copy of the transcript if the Department has all or a portion of the record transcribed within 60 days of the end of the hearing and the employee requests a copy of the transcript within 90 days of the end of the hearing.
- XII. FINDINGS AND RECOMMENDATIONS OF THE HEARING OFFICER.** At the conclusion of the hearing, the hearing officer shall prepare and transmit a report to the Chief of Police stating whether the Department has established, by a preponderance of the evidence, the requirements for reassignment from an advanced paygrade position or deselection from a bonus position as set forth in the provisions of the Department Manual. The hearing officer shall articulate in the report the basis for the findings.
- The hearing officer shall also complete the decision portion of a Decision of the Hearing Officer Administrative Appeal Hearing and Order of the Chief of Police, Form 1.73.1, and forward this with the Hearing Officer's Report to the Chief of Police within 30 days of

the conclusion of the hearing.

XIII. DECISION OF THE CHIEF OF POLICE. The Chief of Police shall make a final decision on the matter within 30 days of receiving the Hearing Officer's Report and shall complete the Order of the Chief of Police portion of Form 1.73.1. The Chief of Police may adopt or reject, in whole or in part, the proposed findings of the hearing officer, as appropriate under the circumstances. The decision of the Chief of Police shall be final.

The Form 1.73.1 and Hearing Officer's Report shall be returned to the Employee Relations Administrator, who shall cause it to be served on the employee and distributed to appropriate entities within ten calendar days.

XIV. CHIEF OF POLICE REJECTION OF HEARING OFFICER'S RECOMMENDATION TO RESTORE EMPLOYEE. If the hearing officer recommends to the Chief of Police that the employee's paygrade or bonus position should be restored and the Chief of Police rejects the hearing officer's recommendation to restore the employee's paygrade or bonus position, the Chief of Police shall, in writing, articulate the reason(s) for rejecting the hearing officer's recommendation, and shall attach that report to the Form 1.73.1 and Hearing Officer's Report for appropriate distribution.

AMENDMENTS. This Order amends Department Manual Section 3/745.50 and also amends the portions of Administrative Order No. 15, 2000, concerning administrative appeal hearings involving an employee's reassignment from an advanced paygrade position or deselection from a bonus position.



WILLIAM J. BRATTON
Chief of Police

DISTRIBUTION "A"