

State Police Commission



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Cathy J. Derbonne
Director

General Circular No. 168

Date: September 24, 2014

Subject: Revision of State Police Commission Rule 12.12 Extension of Time to Complete an Administrative Investigation and Adoption of State Police Commission Rule 12.13 – 12.20

Pursuant to the provisions of State Police Commission Rule 2.10(a), the State Police Commission will hold a public hearing on October 9, 2014 to consider the revision of State Police Commission Rule 12.12 and Adoption of State Police Commission Rule 12.13 – 12.20. The hearing will begin at 9:00 A.M. in Conference Room 308, Office of Management and Finance and OMV Building, 7979 Independence Boulevard, Baton Rouge, Louisiana.

CHAPTER 12

Disciplinary Actions, Removals and Resignations

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~~12.12 Extension Of Time To Complete An Administrative Investigation~~

~~————— In order to request an extension of time within which to complete an administrative investigation in accordance with R.S. 40:2531(B) (8), the appointing authority shall file a written request for an extension of time, with the Louisiana State Police Commission through its Chairman, or the executive Director. The Chairman, or the Executive Director, shall set the matter for a hearing before the Commission or the Executive Director to be held within 10 business days of receipt of the request. The Chairman or the Executive Director shall forward a copy of the written request to the employee, and provide notice of the hearing to the appointing authority and the employee. Such notice may be made via facsimile, email, U.S. mail or hand delivery. The employee who is under investigation shall have the right to attend the hearing and present evidence and arguments against the extension requested. The Commission or the Executive Director, upon finding that good cause exists for the granting of the requested extension of time not to exceed 60 days, shall rule on the request for an extension of time to complete the investigation within 2 business days of the hearing, and immediately provide written notice of the decision to the appointing authority and the employee.~~

Rule 12.12 Troopers Rights related to Administrative Investigations

The statutory embodiment of the Law Enforcement Officer's Bill of Rights, as set forth at La. R.S. 40:2531, et seq, is considered an unconstitutional infringement on the Constitutional authority of this Commission and as such, it will not be applied to cases under Commission review.

AN EQUAL OPPORTUNITY EMPLOYER

Members of the state police service, (hereinafter “Louisiana State Police Troopers”) who are under administrative investigation with a view to possible disciplinary action as set forth in 12.2(b) of these Rules are afforded certain minimum rights by this Commission as set forth below. These rules do not apply to criminal investigations, fleet crash, shooting review or equal employment investigations. Criminal, fleet crash, shooting review or equal employment investigations, drug/alcohol screening, fitness for duty evaluations and requests for incident reports are not considered administrative investigations, nor are these rules considered applicable to those preliminary investigatory actions.

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Adoption of State Police Commission Rule 12.13 – 12.20

Rule 12.13 Notice

The Louisiana State Police Trooper being investigated shall be informed, within fourteen (14) calendar days of the start of the investigation (as set forth in Rule 12.18 below), that Trooper is under investigation, including the date(s) of the alleged offense and the substance of the factual allegations being made against the Trooper.

Further, at the start of any interrogation, Trooper shall be informed of identity and authority of the person conducting such investigation, and at the commencement of any interrogation, such officer shall be informed as to the identity of all persons present during such interrogation. The Louisiana State Trooper shall, upon request, be provided a copy of any written complaint after his/her interrogation if a written complaint has been made against the Trooper. The Louisiana State Trooper shall be allowed to make notes.

Rule 12.14 Conditions

Any interrogation of Louisiana State Police Trooper in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of such Louisiana State Police Trooper.

Rule 12.15 Recording of Interviews

All interrogations of any Louisiana State Police Trooper in connection with the administrative investigation shall be recorded in full. The Louisiana State Police Trooper shall be provided a copy of the recording or transcript, if the recording is transcribed, of the recording of his/her statements upon his/her written request.

Rule 12.16 Right to Counsel

(a) The Louisiana State Police Trooper being questioned, whether as a target or as a witness in an administrative investigation, shall have the right to be represented by counsel, a representative of his/her choosing.

(b) The Louisiana State Police Trooper shall be granted up to fifteen (15) calendar days to secure such representation, during which time all questioning of the trooper shall be suspended.

(c) The Louisiana State Police Trooper’s representative or counsel shall not disrupt or interfere with the interview or interrogation. The Louisiana State Police Trooper’s

representative or counsel may not instruct the Trooper how to testify but may confer with the Trooper as necessary throughout the interrogation and make statements on the record.

Rule 12.17 Statements inadmissible at criminal proceeding

No statement made by the Louisiana State Police Trooper during the course of an administrative investigation shall be admissible in a criminal proceeding against him/her and he/she shall be so advised at the beginning of the interview or interrogation.

Rule 12.18 Time within which to initiate investigation

- (a) When a formal complaint is made against any Louisiana State Police Trooper, the Appointing Authority or his designee shall cause an investigation to be initiated within fourteen (14) calendar days of the date the complaint is made.
- (b) If no formal complaint is made against a Trooper but an incident justifies an investigation, the Appointing Authority or his designee shall cause an investigation to be initiated within fourteen (14) calendar days of the date that Internal Affairs, the Troop/Section Commander or anyone above the commander in the chain of command, learns of the incident.

Rule 12.19 Time to complete investigation and extensions of time

- (a) Except as otherwise provided in this Rule, each investigation of a Louisiana State Police Trooper which is conducted under the provisions of this rule shall be completed within sixty days of the date the investigation was initiated.
- (b) The appointing authority or his designee may petition the State Police Commission, or its Executive Director, for an extension of the time within which to complete the investigation. The executive Director shall have the authority to grant up to one fifteen (15) calendar day extension without the necessity of a hearing but the Trooper shall be notified of the request for extension of time.
- (c) The State Police Commission shall have the authority to grant up to a sixty (60) day extension, in addition to that set forth in subparagraph (b) above, upon a showing of good cause at a hearing conducted by the Commission. The Commission shall set the matter for hearing and shall provide notice of the hearing to the Louisiana State Police Trooper who is under investigation. The Louisiana State Police Trooper who is under investigation shall have the right to attend the hearing and to present evidence and arguments against the extension. Any hearing conducted regarding this Rule may be conducted either by the full Commission or a referee and may be conducted in person or by telephone or other electronic means, as deemed necessary and appropriate by the Commission.
- (d) Nothing contained in this Paragraph shall be construed to prohibit the Louisiana State Police Trooper under investigation and the appointing authority from entering into a written agreement extending the investigation for up to an additional sixty (60) days.
- (e) The investigation shall be considered complete upon determination of the appointing authority to institute disciplinary action against the Louisiana State Trooper or a determination of an exonerated, unfounded or not-sustained complaint.
- (f) Written notice shall be given to the Trooper within seven (7) calendar days from the completion of the investigation, as described in (e) above, that the investigation is complete, the findings of the investigation (Sustained, Not Sustained, Exonerated or Unfounded), the proposed discipline and that the pre-deprivation notice required by Rule 12.8 shall be given within 45 calendar days.
- (g) Nothing in this paragraph shall limit an investigation of alleged criminal activity.

- (h) The investigation of criminal activity may suspend the sixty (60) day period for completing the administrative investigation.
- (i) If the Appointing Authority or his designee requires an extension of time within which to complete the investigation or if an extension of time is jointly requested, and the Trooper has been placed on leave pending investigation under Rule 12.4, the Trooper shall be continued on paid administrative leave pending investigation until the completion of the investigation if the Appointing Authority finds that continued leave is warranted under Rule 12.4.

Rule 12.20 Penalty

Any disciplinary action taken against the Louisiana State Trooper in violation of these Rules may be reduced, modified or reversed by the Commission, in accordance with Rule 13.20.

Please review this proposal and furnish, in writing, by October 1, 2014 any comments which you consider pertinent. If you would like to appear before the Commission and present your comments orally, you are invited to do so. You must notify this office by October 1, 2014 of your intention to address the Commission in order to be placed on the agenda.

Please post this General Circular in a prominent place, so that all employees will receive notice of this public meeting. If any special accommodations are needed, please notify us prior to the meeting date.

Sincerely,

Cathy Derbonne

Cathy Derbonne
Director

