

# State Police Commission

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October 20, 2000

Transmittal Sheet No. 29

Subject: Repeal, reenactment and adoption of State Police Commission Rules 2.15(a), (b), (c), (d) & (e); State Police Commission Rule 6.13(a) & (b); and the definition of Discrimination in Chapter 1

Effective Date: October 19, 2000

At its meeting on October 19, 2000, on motion duly made and seconded, by unanimous vote of the members present, the State Police Commission voted to repeal, reenact and adopt the above-referenced rules. Attached are complete copies of Chapters 1, 2 and 6 for inclusion in your rules.

Sincerely,

*Debra L. Johnson*

Debra L. Johnson  
Director

Attachments

## CHAPTER 6

### PAY PLAN

#### 6.1 Philosophy.

The pay rates for the State's classified workforce will be established in accordance with a system that generally considers such factors as availability of applicants, the quality of the applicant pool, turnover rates, federal law, market competition, pay practices of market competitors, the evaluation system ranking, employees' performance and level of funding available. The State will not be a market leader, but, for the most part, will follow the market as the value of jobs change.

#### 6.2 Preparation of Pay Plan.

- (a) The Director, after consultation with the appointing authority and the state fiscal officer, and after conducting such research as the Director deems appropriate, shall cause to be prepared for submission to the Commission, a uniform pay plan, or amendments thereto, for the classified service. The Director may propose different rates of pay in different localities and areas of the state, depending upon availability of applicants and other factors impacting compensation.
- (b) The Director shall make a recommendation to the Commission concerning a pay structure adjustment at least annually.

#### 6.3 Adoption of Pay Plan.

- (a) Any Pay Plan, or amendments thereto, proposed by the Director shall be submitted to the Commission for its consideration at a public hearing called for this purpose.
- (b) The State Police Commission, upon adoption of a Pay Plan, shall specify the manner in which the Pay Plan is to be implemented.
- (c) A Pay Plan may include, but not necessarily be limited to, an adjustment to the pay structure, an increase of limited duration, a general increase and/or new, revised or abolished jobs.
- (d) A Pay Plan or amendment thereto, when adopted by the Commission after public hearing, shall become effective:
  - 1. After approval in its entirety by the Governor; and
  - 2. Subject to appropriation of sufficient funds by the legislature.

#### 6.4 Rates in Pay Plan.

- (a) The pay range for each job shall consist of established salary rates.
- (b) Subject to the provisions of Rules 6.5(e), 6.8(b), 6.10(c), 6.11, 6.15, 6.16, and 17.11(e) each employee shall be paid at an established salary rate within the range of the job to which the position is allocated.

#### 6.5 Hiring Rate.

Pay upon employment shall be at the lowest salary rate of the range established for the grade of the job to which the position is allocated except:

- (a) Job Appointment.

The pay of a job appointee shall not be reduced when an employee who has been earning more than the hiring rate for the job occupied is then probationally appointed to a position in the same job without a break in service of one or more working days.

- (b) Special Entrance or Retention Rates.

When economic or employment conditions cause substantial recruitment or retention difficulties, the Director may authorize the appointment of qualified applicants at a special entrance rate or may authorize the use of a special retention rate within the range for the job in a limited geographical area or for positions in a job where employment conditions are unusual.

1. The department or departments to which the special rate is made applicable having employees in the same job in the affected area or locale where the special rate will be used, shall increase the pay rate of all such employees to the special rate. All new hires shall be paid at the special entrance rate or special retention rate. An appointing authority may adjust the salaries of employees working in the positions to which the special entrance rate applied to any salary up to but not to exceed the amount of the percent difference between the special rate and the current hiring rate.
2. When special entrance rates or special retention rates are adjusted downward, the individual pay rates of employees occupying positions affected by the authorized rates shall not be changed.
3. Special entrance rates and special retention rates must be approved by the Commission at its next scheduled meeting after action was taken by the Director.

(c) Reentering the Classified Service.

The pay of an employee reentering the classified service, other than one being restored to duty following military service, may be set at any salary rate in the range that does not exceed the highest salary the employee previously earned while serving with permanent status in a classified position other than detail to special duty and does not exceed the salary rate designated for the total number of years of State Police Service by the employee. If the range for the job has been adjusted and the range hiring rate is higher than the employee's former salary, the employee will enter at the hiring rate. If the value of the salary rate column equal to the total number of years of State Police Service acquired by the employee has been raised since the employee's separation, their pay may be set at the higher rate. If the former salary is higher than the range highest salary rate, the employee's pay rate shall be set no higher than the range highest salary rate. The appointing authority may, at any time and to the extent permitted by other provisions of these Rules, grant any increase for which an employee having reentered the classified service possesses eligibility under this subsection. This Rule shall not apply to a former employee who was separated for delinquency, misconduct or unsatisfactory performance, or who resigned to avoid disciplinary action.

(d) Return From Military.

Subject to Rule 8.19, when an employee returns from military service and is restored to duty in their former, equivalent, or lower position, the employee's pay shall be set at the rate earned before leaving the classified State Police Service. If the job or equivalent job had been upgraded or any pay adjustments granted, the employee shall be granted a pay rate reflecting the impact of these adjustments, as though the employee had been in that job at the time of the adjustments. If the employee's rate of pay does not match that of the established salary rate for the total years of State Police Service in the grade assigned to the position the employee will occupy, the employee's salary rate shall be red circled in accordance with the provisions of Rule 6.15.

(e) The Director, with the approval of the Commission, may establish special hire rates for workers employed by the appointing authority which administers federal funds for use in this state, either directly or indirectly, or as a grant-in-aid or to be matched or otherwise, provided the appointing authority is required to, by rule or regulation of, or contract with, a participating federal authority to pay such special rates, except that the appointing authority must comply with the minimum wage rate, as prescribed and required by Federal rules, statutes, regulations and judicial decisions, which such minimum rate is more than that provided for in these rules.

6.5.1 Pay Upon Appointment From a Department Preferred Reemployment List.

Subject to Rule 6.14, the pay of a person appointed from a department preferred reemployment list may be set no higher than the employee's rate of pay at the time of the layoff or displacement action, which entitled the employee to placement on the preferred list from which they are appointed, or at the employee's current rate if such rate is higher based on other provisions of these Rules. Never shall the rate of pay be higher than the range highest salary rate for the class to which appointed.

6.6 Market Rate Job Assignment.

- (a) When the pay range for the grade to which a job is currently assigned either is not sufficient to compete with prevailing market conditions, or is found to exceed prevailing market rates, the Director may, in accordance with Rules 6.1 and 3.1(n), authorize the assignment of the job to a grade with a more appropriate pay range. The individual pay rate of employees occupying jobs which are affected shall be set in accordance with Rule 6.8.

6.7 Rate of Pay Upon Promotion.

- (a) When an employee is promoted to a position in a higher grade, their pay shall be the rate of pay established for the corresponding salary rate at the higher grade.
- (b) When an employee has been detailed with pay to a higher job and is promoted to that same job directly from the detail, their pay eligibility on promotion shall not be less than they received on detail.

6.8 Pay Upon Grade Assignment.

When the Director assigns a job to a different grade or reallocates a position from one job to another:

- (a) If the job to which the position is allocated is in a higher grade or if the job is assigned to a higher grade, the affected employee's pay shall be set in accordance with Rule 6.7.
- (b) If the job to which the position is allocated is in a grade lower than the current job or the job is assigned to a lower grade, the affected employee's pay will not change, but shall be subject to the provisions of Rule 6.15.

- (c) If the job to which the position is allocated is in the same grade, or if the job is assigned to the same grade level, the employee's pay shall not change.

#### 6.9 Pay Upon Reassignment.

When an employee is reassigned to another position, their rate of pay shall not be reduced without their permission.

#### 6.10 Rate of Pay Upon Demotion.

- (a) When an employee is demoted for disciplinary reasons or in lieu of layoff required solely by budgetary reasons, the appointing authority may set the employee's pay at any salary rate within the lower pay range which does not exceed their current rate of pay and the salary rate designated for the total number of years of State Police Service by the employee.
- (b) When an employee takes a voluntary demotion, their rate of pay in the lower grade shall be set at a salary rate within the lower range which does not exceed their current rate of pay and the salary rate designated for the total number of years of State Police Service by the employee as agreed to by the employee and the appointing authority.
- (c) When an employee is involuntarily demoted for non-disciplinary reasons, their pay shall not be changed except for layoffs required solely by budgetary cuts and Rule 6.15 shall apply.

#### 6.11 Rate of Pay on Detail to Special Duty.

When an employee is detailed to special duty, their pay shall not be reduced; if the position is allocated to a job which is assigned to a higher grade, their pay shall be increased to the rate they could receive upon promotion to such position, provided:

- (a) Any such temporary increase granted the employee shall not affect their eligibility for pay increases which they would have acquired in their regular position had they not been detailed.
- (b) At the conclusion of the detail, the employee's pay shall revert to their authorized rate of pay in their regular position.

#### 6.12 Compensation for Part-Time Services.

- (a) When part-time service in any position is authorized or rendered, the actual compensation to be paid shall be the appropriate hourly rate.

- (b) When part-time service is rendered, it shall be the duty of the appointing authority to certify to the Director, on each notice of appointment or change in status of the employee, the percent of full-time hours to be worked.
- (c) An employee paid on a monthly or semi-monthly basis, who is employed for only part of a pay period shall be paid for the proportionate calendar days worked.

#### 6.12.1 Compensation for Holidays.

Employees shall be eligible for compensation on holidays observed, except:

- (a) When the employee's regular work schedule averages less than 20 hours a week;
- (b) When the employee is on restricted appointment;
- (c) When the employee is on leave without pay immediately preceding and following the holiday period; or
- (d) When the employee is on an intermittent work schedule.

#### \*6.13 Certification and Payment.

- (a) No employee shall receive any compensation except as authorized by or pursuant to the provisions of Article X, the State Police Commission Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the Director.
- (b) If payments to an employee are found to have been made in violation of the provisions of Article X, the State Police Commission Rules, the Uniform Classification and Pay Plans, or the policies and procedures issued by the Director, the Director may take any corrective action deemed appropriate or may direct the appointing authority to take such corrective action. Corrective actions may include, but are not limited to, the rescission of any actions and associated compensation, or restitution to the employee.

#### 6.14 Merit Increases.

- (a) When applying the merit increase, the employee's current pay increases to the rate of pay established for the higher salary rate immediately following the employee's current rate within the pay range for which the employee's job is assigned.

- (b) Upon a new employee's successful completion of the State Police Training Academy, they become eligible for and may be granted a merit increase provided that the appointing authority has determined their performance merits such an award.
- (c) At the end of the new employee's Field Training Officer (FTO) program, or, if the new employee's position does not require participation in the Cadet FTO program and the new employee has been continuously employed without a break in service of one or more working days for eight (8) months, the employee becomes eligible for and may be granted an additional merit increase provided that the appointing authority has determined their performance merits such an award.
- (d) At the end of each one-year period of continuous employment following the employee's original appointment, the employee may be granted an additional merit increase, not exceeding the salary rate designated for 20 years of State Police Service, if the appointing authority has determined that their performance merits such an award. This date of eligibility shall be known as an anniversary date and shall not change through such continuous employment within the classified service. Upon the employee's twenty fifth year anniversary in the State Police Service, they become eligible for and may be granted a final merit increase, if the appointing authority has determined that their performance merits such an award.
- (e) The appointing authority may, at any time within three (3) years from the date an employee gained eligibility, grant an employee all or any one of the merit increases for which they have attained eligibility provided the employee has not received an unsatisfactory service rating for the applicable year(s). A part-time employee shall receive the same credit they would receive if they were employed on a full-time basis.
- (f) All increases herein authorized are subject to the requirement that no employee's pay shall exceed the highest established salary rate for the range to which the position is assigned.
- (g) An employee's eligibility for the increases authorized in Subsections (b), (c), and (d) shall not be interrupted by time served in the military service if they are reemployed under the provisions of Rule 8.19.
- (h) A former employee who is reemployed following a break in service of one or more working days, except those appointed from a department preferred reemployment list and except those who are restored to duty, under the provisions of Rule 8.19, upon return from military service, shall be considered a "new" employee within the meaning of this rule.



- (i) Any adjustment or increase which an employee receives under the provisions of other rules, unless otherwise indicated, shall not affect such employee's eligibility to receive increases authorized under this rule.
- (j) An employee who has a current service rating of unsatisfactory shall not be eligible for any increase under the provisions of this rule.
- (k) A former employee who is reemployed following certification from a department preferred reemployment list within a year of the layoff date shall retain the anniversary dates and merit increase eligibilities earned under subsections (b), (c), (d), and (e) for which they have not been granted an increase. If reemployed from a preferred list after one year, they shall be considered a new employee with regard to the establishment of their anniversary date and merit increase eligibility.
- (l) An employee on detail to a position in a higher grade may be eligible for a merit increase in the higher job calculated on their individual pay rate in the higher job.

#### 6.15 Red Circle Rates.

- (a) Rates that fall precisely on an established salary rate become the employee's authorized individual pay rate.
- (b) Individual pay rates that fall between established salary rates become temporary red circle rates and remain in effect until the employee becomes eligible for and receives an increase which places their salary on an established salary rate. Individuals whose salary rates are temporarily red circled shall be eligible for any other pay adjustments provided for in the rules.
- (c) Individual pay rates that fall above the highest salary rate established for the grade become red circle rates and remain in effect until the range catches up with the rate. However, eligibility for a red circle rate above the highest salary rate grade is lost upon separation from State Police Service, demotion, or promotion. Individuals whose salary rates are red circled above the highest salary rate shall not be eligible for any other pay adjustments provided for in the rules.
- (d) Red circle rates are assigned under the conditions outlined below:
  - (1) When the job to which a position is allocated is assigned to a lower grade.
  - (2) When a position is reallocated to a job assigned to a lower pay grade.

- (3) When an adjustment to the pay structure lowers the range for the grade to which a job is assigned.
- (4) When positions are declared to be in the classified service and the employee's current rate of pay falls above the highest salary rate of the range for the grade of the job into which the position(s) are allocated.
- (5) When the employee's pay exceeds the highest salary rate of an approved market grade.
- (6) When an employee has returned from military duty and their pay is set for an amount other than an established salary rate under the provisions of Rule 6.5(e).
- (7) When an employee's pay does not match an established salary rate due to an involuntary demotion for non-disciplinary reasons under the provisions of Rule 6.10(c).

#### 6.16 Special Pay Rates.

Under conditions described below, the Commission may authorize special pay considerations, beyond those already prescribed in these rules.

(a) **Shift Differential.**

In order to remain competitive with the pay practices of market competitors, additional pay may be authorized for shift work or other non-standard work hours.

(b) **Extraordinary Duty.**

Additional pay may be authorized for an employee who performs extraordinary duty that is not an integral part of their regularly assigned duties.

(c) **Individual Pay Adjustment.**

When the appointing authority requests, and can present adequate justification with documentation before the Commission in public hearing, the Commission may grant a special adjustment in pay for individual employees.

(d) The appointing authority may, after presenting justifiable reasons in writing to the Commission, and with the Commission's approval, pay an incentive award at any time that the justifications have been shown.

(e) Premium Pay.

In order to provide a special pay rate to apply to situations which other rules do not cover, the State Police Commission may authorize premium pay for positions in a job where employment conditions are unusual, to remain competitive with the pay practices of market competitors.

(f) The special pay rates authorized by the Rule shall not be effective until approval by the Commission at a public hearing.

#### 6.17 Pay On Entering the Classified Service

An employee who enters the classified service because their position has been declared to be in the classified service shall have their pay established as follows:

- (a) If the employee's current rate of pay falls on an established salary rate within the range, their rate of pay shall remain the same.
- (b) If the employee's current rate of pay is below the range hiring rate, it shall be brought to the range hiring rate.
- (c) If the employee's current rate of pay is above the range highest salary rate, Rule 6.15 shall apply.
- (d) If the employee's current rate of pay is between salary rates, Rule 6.15 shall apply.

#### 6.18 Definition of Overtime Hour.

An overtime hour is an hour worked by an employee at the direction of the appointing authority:

- (a) On the employee's official holiday; or
- (b) In excess of the regular duty hours in a regularly scheduled workday, as designated under Rule 11.1(c), or 11.2(b); or
- (c) In excess of the regular duty hours in a regularly scheduled workweek, as designated under 11.1(c) or 11.2(b); or
- (d) In excess of forty hours worked during any regularly recurring and continuous seven-day calendar work period, where excessive hours are systematically scheduled. Any holiday observed during the work period is counted as a day worked;

- (e) In excess of eighty hours worked during any regularly recurring and continuous bi-weekly calendar work period, where excessive hours are systematically scheduled. Any holiday observed during this work period is counted as a day worked;
- (f) In excess of the hours worked in a regularly established, continuous and regularly recurring work period, where hours average forty hours per week, regardless of the manner in which scheduled, and where excessive hours are systematically scheduled. Any holiday observed during the work period is counted as a day worked; or
- (g) A day on which the department, or a division thereof, is closed by direction of the appointing authority because of natural emergencies, in accordance with the provisions of Section B(5) of LSA.R.S. 1:55.

6.19 Methods of Compensation for Overtime Hours Worked.

Compensation for overtime, if applicable, shall be one of the following:

- (a) Cash payment at the time and one-half rate (Premium pay, shift differential, and non-cash compensation such as the reasonable cost or fair value of goods and/or facilities which are regarded as part of the employee's wages under the Fair Labor Standards Act may be included in calculating the rate of pay at time and one-half.)
- (b) Cash payment at the regular rate (Premium pay, shift differential, and non-cash compensation such as the reasonable cost or fair value of goods and/or facilities which are regarded as part of wages under the Fair Labor Standards Act shall not be included in calculating the rate of pay at the regular rate.)
- (c) Compensatory leave earned hour for hour.
- (d) Compensatory leave earned at the time and one-half rate.

6.20 Options for Full-time Employees for Overtime Hours Actually Worked in Excess of Eighty Hours Per Work Period.

As provided by Rule 6.24, the appointing authority shall select and use one of the applicable options listed below for those overtime hours actually worked in excess of 80 hours per work period.

FLSA STATUS

OPTIONS

- |               |   |
|---------------|---|
| (a) Nonexempt | (1) Cash payment at time and one-half rate;<br>or |
|---------------|---|

- (2) Compensatory leave earned at time and one-half rate.
- (b) Exempt
  - (1) Cash payment at regular rate; or
  - (2) Compensatory leave earned hour for hour; or
  - (3) No overtime compensation.

6.21 Overtime Options for Full-Time Employees for Overtime Hours Not Actually Worked in Excess of Eighty Hours per Work Period Due to Holidays Observed or Leave Taken.

The appointing authority shall select and use one of the applicable options listed below for those overtime hours not actually worked in excess of eighty hours per work period due to holidays observed or leave taken.

FLSA STATUS

OPTIONS

- |               |  |
|---------------|--|
| (a) Nonexempt | <ul style="list-style-type: none"> <li>(1) Cash payment at regular rate; or</li> <li>(2) Compensatory leave earned hour for hour.</li> </ul>   |
| (b) Exempt    | <ul style="list-style-type: none"> <li>(1) Cash payment at regular rate; or</li> <li>(2) Compensatory leave earned hour for hour; or</li> <li>(3) No overtime compensation.</li> </ul> |

6.22 Overtime Options for Part-Time Employees.

The appointing authority shall select and use one of the applicable options for:

- (a) A regular part-time employee who works in excess of their scheduled workday or work period, but does not work in excess of eighty hours in a work period:
  - 1. Cash payment at regular rate; or
  - 2. Compensatory leave earned hour for hour.

- (b) A regular part-time employee who works in excess of eighty hours per work period and is nonexempt shall be compensated in accordance with Rule 6.20.
- (c) A regular part-time employee who works in excess of eighty hours per work period and is exempt:
  - 1. Cash payment at regular rate; or
  - 2. Compensatory leave earned hour for hour.
- (d) An intermittent employee:
  - 1. Overtime for work in excess of eighty hours per work period by nonexempt employees shall be compensated in accordance with Rule 6.20; or
  - 2. Overtime for work in excess of eighty hours per work period by exempt employees shall be compensated by cash payment at the regular rate; or
  - 3. Work not in excess of eighty hours per work period is not considered overtime.

6.23 Overtime Options for Work on Holidays.

- (a) The appointing authority shall select and use one of the applicable options for overtime work not in excess of eighty hours per work period performed on holidays.

FLSA STATUS

OPTIONS

- |              |   |
|--------------|---|
| 1. Nonexempt | <ul style="list-style-type: none"> <li>(a) Cash payment at time and one-half rate; or</li> <li>(b) Cash payment at regular rate; or</li> <li>(c) Compensatory time earned hour for hour.</li> </ul> |
|--------------|---|

- 2. Exempt
  - (a) Cash payment at regular rate; or
  - (b) Compensatory time earned hour for hour; or
  - (c) No overtime compensation.

- (b) Work performed in excess of eighty hours per work period shall receive overtime compensation in accordance with Rule 6.20, whether or not work is performed on a holiday.

6.24 Special Overtime Pay Provisions (Fair Labor Standards Act, Section 7)

The appointing authority may use any of the special overtime pay provisions permitted by the Fair Labor Standards Act; however, if an employee actually works in excess of full-time hours during the pay period, but less than the number of hours required to be treated as overtime under FLSA, Rule 6.20 shall only apply for such overtime hours.

6.25 Caps on Accumulation of Compensatory Leave.

- (a) Employees who accrue compensatory leave at the time and one-half rate shall accumulate no more of such compensatory leave than allowed under the Fair Labor Standards Act.
- (b) Once the maximum balance of compensatory leave earned at the time and one-half rate is reached, any additional overtime work in excess of forty hours per week must be paid to an eligible employee in cash at the time and one-half rate.
- (c) Compensatory leave earned hour for hour may be accrued up to a maximum of 360 hours in any calendar year. Transfer, cancellation and crediting of compensatory leave is provided for under the provisions of Rule 11.29.

6.26 State Police Commission Review of Nonexempt Positions.

- (a) It is the responsibility of the appointing authority on an ongoing basis to determine whether an employee occupying a position should be considered nonexempt under the Fair Labor Standards Act. Such employees must be paid in accordance with the Fair Labor Standards Act, and prior approval from the Director is unnecessary. Following such determination, the appointing authority shall provide the Director with a listing of such job titles and number of positions.

- (b) Such listing will be reviewed by the Director in order to serve as a check to insure an understanding of the FLSA exemptions and to compare with information provided for classification purposes.

#### 6.27 Exceptions to the Overtime Rules.

Exceptions to the Rules on overtime compensation are as follows:

- (a) For positions which are exempt under the Fair Labor Standards Act, the Commission may grant authority to use any of the options for overtime compensation when:
  - 1. The appointing authority petitions the Commission for this authority. The Commission, may, with such restrictions as it deems appropriate, permit the use of time and one-half compensation to employees who occupy exempt positions.
  - 2. The Director petitions the Commission for authority to utilize time and one-half compensation to specific jobs. Such authorizations, when approved, shall be published in a General Circular.
- (b) Unless otherwise required for nonexempt employees under the provisions of the Fair Labor Standards Act or other federal rules, regulations and judicial decisions, cash payment at time and one-half rate, cash payment at the regular rate, and compensatory leave earned at time and one-half rate do not apply for employees:
  - 1. While performing civilian duty, under the administrative supervision of one other than the appointing authority, during an officially declared national, regional or a local emergency.
  - 2. While "on call" away from their duty post.
  - 3. While attending or traveling to and from conventions, workshops, training courses, study groups and related activities.
  - 4. While performing duties pursuant to a determination made by the appointing authority under the provisions of Rule 11.29(g).
- (c) All payable compensatory leave earned by an employee, before April 15, 1986, who later separated from the classified service to enter the military, shall be paid for such leave at the time and one-half rate upon restoration to duty in accordance with State Police Commission Rules 8.19, II.26(a), or II.26(b). This shall apply only to payable leave for which the employee received no payment and which they did not take before separation.



6.28 On-Call Pay.

- (a) The Director may authorize payment of on-call pay through policy directives which establish guidelines for on-call pay and which establish maximum authorized rates. The Commission may authorize on-call pay at a higher rate than established by the Director.
- (b) Such on-call pay is compensation for hours in excess of the employee's regularly scheduled hours of duty, when they are available for call back to their duty station, work-ready, within a specified period, at the direction of the appointing authority. On-call pay is in addition to the employee's regular pay and is not to be included in computation of overtime payments or terminal leave payments allowed under the provisions of other Sections of the Rules. On-call pay shall not be granted to an employee for their regularly scheduled hours of duty. Further, when an employee is called back they shall be considered in duty status and eligible for applicable overtime compensation.

## CHAPTER 1

### DEFINITIONS

The following words and phrases when used in these Rules shall have the following meaning ---

**Abandonment of Position** - the desertion by a Classified employee of his position.

**Acceptable Rating** - a performance appraisal rating of either "Achieves Results Expected," "Exceeds Results Expected" or "Outstanding."

**Allocation** - the determination of the job to which a position is deemed to pertain.

**Anniversary Date** - the date at which an employee is eligible for a merit increase in pay measured from the first date of continuous State Police Service, normally one (1) year from date of hire. All time experienced in the State Police Service is counted as eligible time. If service time has been interrupted by breaks in service, add the composite of all State Police Service experience to the new hire date to determine the employee's anniversary date.

**Annual Leave** - leave with pay granted an employee for rehabilitation, restoration and maintenance of work efficiency, or transaction of personal affairs.

**Appointing Authority** - the agency, department, board or commission, and the officers and employees thereof authorized by statute or by lawfully delegated authority to make appointments to and removals from positions in the State Police Service.

**Appointment** - the designation, by Chapter 8 of the State Police Commission Rules, of an employee to a certain office and his acceptance thereof.

**Article or State Police Commission Article** - Article X, Part IV of the Constitution of the State of Louisiana of 1974.

**Bona Fide Student** - a person enrolled in an accredited high school, college or university in the State, or a person enrolled in a state-operated vocational/technical school, who meets the criteria of such institution to be classified by that institution as a full-time regular student; or a person enrolled in an off-campus college work-study program in a proprietary institution of higher education as defined in Section 461(b) of the Higher Education Act of 1965, as amended. A bona fide student shall not lose such status because of vacations during the academic year or because of his failure to attend summer school.

**Career Field** - any one of a job series or group of positions considered having a close occupational relationship and categorized as such by the State Police Commission. A career field shall include a job series, or series of jobs created to provide a natural

progression. The career field(s) used by an agency in a layoff shall be the career field(s) in the official career field listing as updated through the latest Transmittal Sheet dated before the layoff plan is received by the State Police Commission.

**Certifiable Scores** - a range of scores on a selection procedure which would likely be in the top five grade groups on a certificate of eligibles if one were issued.

**Change in Position** - for the performance appraisal rating system, means either a voluntary demotion or the assignment of an employee to another position in the same or a different job with significantly different duties from those of the position he previously held, or the movement of an employee to another position in another agency.

**Class** - for these Rules, means the same as 'Job'. (See Rule 1.17.1.1)

**Classification Plan** - the hierarchical structure of jobs, arranged in pay grades according to job evaluation results.

**Classified Position** - any office or position in the Classified Service.

**Classified Service** - any person in the State Police Service, except those specifically placed in the Unclassified Service by these Rules by the Commission or exempt from the Classified Service by the Article.

**Commission** - the State Police Commission.

**Commuting Area** - the geographic area in which employees are subject to competition for a layoff, which shall encompass only the parish of the abolished position(s) and all bordering parishes.

**Compensation** - salary, wages, fees, and special pay considerations authorized under Chapter 6 of these Rules earned by or paid to any employee, because of service rendered in any position.

**Continuing Position** - an office or position of employment in the Classified Service which reasonably can be expected to continue for more than twelve months.

**Continuous State Service** - uninterrupted status of a Classified employee of a State agency or agencies exclusive of interruption caused by authorized leave of absence, layoff of not more than one year, military service consisting of active duty in the armed forces of the United States for not more than six years of voluntary service or an indefinite period of involuntary service, or separation of not more than thirty (30) calendar days.

**Demotion** - a change of a permanent or probationary employee from a position of one grade level to a position of a lower grade level.

**Department** - any legally constituted agency, board or commission whose employees are in the State Service as defined by the Article.

**Department Preferred Reemployment List** - a list of employees whom we have laid off or otherwise affected off by a layoff (e.g., displaced and/or demoted in lieu of layoff, changed in duty station, reassigned). Employees on such a list are given preferential hiring rights in the department or agency affected by a layoff.

**Designated Holiday** - a holiday or part of a holiday an employee observes, in lieu of a regular holiday observed by his agency, because the regular holiday or a portion thereof, fell on the employee's regular day off.

**Detail to Special Duty** - the temporary assignment of an employee to perform the duties and responsibilities of a position other than the one to which he is regularly assigned, without prejudice to his rights in and to his regular position.

**Director** - the Director of the State Police Commission.

**\*Discrimination** - consideration in the appointment, removal, discipline or any other action which adversely affects a probationary or permanent employee and is based on any non-merit factor relating to the employee's religious or political beliefs, gender or race.

**Efficiency Rating** - the service rating of an employee on the basis of satisfactory or unsatisfactory.

**Eligible** - any person who, after receiving a final passing rating in a State Police Commission examination, is currently on an eligible list.

**Employee Affected by a Layoff** - one who has experienced any consequence of a layoff such as separation, displacement, demotion, reassignment, or change in duty station.

**Exempt** - is a term referring to those groups of employees that are exempt from the overtime provisions of the Fair Labor Standards Act.

**Furlough** - a period of leave without pay required of employees by an appointing authority in order to avoid a layoff.

**General Increase** - an across the board wage and salary increase designed to bring pay in line with increases in the cost of living.

**Hiring Rate** - the beginning rate at which persons are hired into a job.

**Individual Pay Rate** - the rate of pay assigned to a given individual. Individual pay rates may vary on the same job as a function of service in grade, performance or some other basis for establishing variation in employees' merit.

**Initial Military Active Duty for Training** - training of not less than three months, which is an obligation for members of the Reserve and National Guard who have not previously served on active duty.

**Job** - a homogeneous cluster of work tasks. Taken as a whole, the collection of tasks, duties and responsibilities constitutes the assignment for one or more individuals whose work is the same nature which is performed at the same skill/responsibility level. This definition means the same as "Class".

**Job Analysis** - a comprehensive, systematic breakdown that identifies the relevant components in a particular job through a detailed description of work behaviors and tasks performed.

**Job Appointment** - a temporary appointment of an employee for work of a temporary nature or to substitute for another employee. An employee serving in a third successive job appointment shall be considered to have acquired permanent status.

**Job Evaluation** - a formal process which determines the relative value to be placed on various jobs within the organization.

**Job Specification** - a summary of the most important features of a job including the general nature of the work performed, specific task responsibilities, and employee characteristics (including skills) required to perform the job. A job specification focuses on the job itself and not any specific individual who might fill the job.

**Layoff** - the removal of an employee from a position because of a lack of work or funds or for other non-disciplinary reasons not provided for in Rules 12.6 or 12.10.

**Layoff Avoidance Measures** - action taken by an appointing authority and approved by the Director and/or the commission to help prevent a layoff. These include withholding of merit increases, reductions in pay, reductions in work hours and furloughs.

**Leave Without Pay** - leave or time off from work, other than a disciplinary suspension as provided for in Chapter 12, which is granted or ordered by the appointing authority and during which the employee receives no pay.

**Market Grade Job** - a job assigned a grade having a pay range more appropriate to the market rate for that job than the range assigned its evaluated grade.

**Merit Increase** - an adjustment to an individual pay rate based on performance, or some other individual equity basis.

**Military Active Duty** - full-time duty in the active military service, other than active duty for training.

**Military Active Duty for Training** - full-time paid duty in the active military service for training purposes. This may be indicated on military orders as "ADT" (Active Duty for Training), "FFTD" (Full-time Training Duty), "AT" (Annual Training), or IADT (Initial Active Duty for Training).

**Military Training Duty** - includes active and inactive duty for training such as annual two-week summer encampments and cruises, weekly and weekend drills or training meetings, attendance at service schools for refresher training or the upgrading of military skills, field exercises, and the like.

**Minimum** - the starting salary or hiring rate of a pay range for a job.

**Multiple Restricted Appointment** - more than one restricted appointment of one person during any twelve (12) month period when the person's total accumulated time on such appointments will exceed three (3) calendar months.

**Official Domicile** - is the following:

- a) The official domicile of an officer or employee assigned to an office, exclusive of temporary assignments, shall be the city in which the office is located.
- b) The official domicile of a person in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interests of the agency and not for the convenience of the employee.

**Official Holiday** - either the employee's actual or designated holiday, whichever is selected by the appointing authority for overtime compensation purposes.

**Organization Unit** - any administrative agency or part thereof designated by rule or regulation hereunder as a unit for purposes of administering these Rules.

**Organizational Unit** - for purposes of layoff means the area subject to a layoff, as approved by the Director. It shall normally be one of the following:

- (a) One of the state Departments authorized in the Constitution.
- (b) An office headed by a secretary, assistant secretary, or undersecretary, or an office established by law and headed by a comparable official having appointing authority over that office.
- (c) An institution with an appointing authority and supporting services such as a hospital or school.

- (d) A separate state agency or one housed in a department but has a separate appointing authority, separate identity, a distinct mission and powers granted by statute. Such agencies include those transferred under a statute, each of which continues to exercise all of the powers, duties, functions and responsibilities authorized by the Constitution or laws. The functions of such agencies are exercised independently of the secretary and any assistant secretary.

**Original Appointment** - initial appointment of a person to a classified position by provisional, probationary or job appointment.

**Pay Grade** - a pay level at which jobs are assigned by job evaluation and/or market adjustment.

**Pay Plan** - a schedule of pay rates or ranges and a list showing the assignment of each job in the job evaluation plan to one of the rates or ranges and includes rules of administration.

**Pay Range** - the range of pay rates from the lowest salary rate to the highest salary rate set for a pay grade.

**Pay Structure** - the organization of pay grades and ranges or salary rates established for jobs within the classified service.

**Pay Structure Adjustment** - a change in the salary rates for all pay grades to maintain a general competitive level with the market for recruitment. Individual pay rates will increase accordingly.

**Performance Appraisal Rating** - the overall rating of an employee, made in accordance with the performance appraisal system established by these Rules.

**Performance Standard** - a statement or description of observable conditions that define the levels of performance for each major task or duty area.

**Political Activity** - an effort or activity to support or oppose the election of a candidate for political office or, other than party registration, effort or activity to support or oppose a particular party in an election or otherwise.

**Position** - any office and any employment in the classified Service. Position for job evaluation and pay purposes means a collection of duties and responsibilities assigned to an individual employee. Multiple positions may constitute a job.

**Preference Employee** - an employee who is an ex-member of the armed forces and his or her dependents as defined in Rule 7.11.

**Probationary Appointment** - appointment of a person to serve a working test period in a position.

**Progress Review** - a scheduled meeting between an employee and his supervisor in which they discuss the employee's accomplishments and possible problems in performance (e.g., performance standards), and in which performance criteria is reviewed and revised if necessary.

**Promotion** - a change of a permanent employee in the Classified Service from a position of one job to a position of another job which is assigned to a higher pay grade.

**Promotional List** - a list, established in conformity with these Rules, of permanent employees who have demonstrated their fitness for a position of a higher grade by successfully passing an examination for such higher job position and are eligible for promotion within the same department or transfer and promotion from another department.

**Provisional Appointment** - a temporary appointment of a nonpermanent employee to a position without an adequate eligible list, until the appointed employee demonstrates the required skill level to qualify for the job.

**Public Hearing** - a hearing held after public notice of at least 24 hours, at which any person may have a reasonable opportunity to be heard, in accordance with such rules and regulations as may be adopted by the Commission.

**Public Employment** - employment in any capacity or status, whether appointed or elected, classified or unclassified, by any branch, agency or program of the United States government or any branch, agency or program of any State government or any political subdivision thereof.

**Reallocation** - a change in the allocation of a position from one job to another in which the duties of the position have undergone a change.

**Reassignment** - the change within the same department of a probationary or permanent employee from a position in one job to another position in a different job, both jobs of which have the same pay range.

**Red Circle Rate** - an individual pay rate that does not match an established salary rate of the assigned pay grade for the position occupied.

**Reemployment** - the noncompetitive appointment of a person based on permanent status attained in former employment in the Classified Service.

**Regular or Permanent Appointment** - the status attained by a classified employee upon the successful completion of his probationary period.



**Reinstatement** - the restoration to duty and pay status, under the conditions set forth by the restoring authority, of a former classified employee pursuant to an order by the Commission or a court.

**Removal or Dismissal** - the termination of employment of an employee for cause.

**Reserve Component** - consists of members of the National Guard and Reserves of all Branches, officers and enlisted personnel, who perform active duty, active duty for training or inactive training duty.

**Resignation** - the voluntary termination, including retirement, by an employee of his employment in the Classified Service.

**Restricted Appointment** - a temporary appointment of a person to a temporary position or to a temporarily vacant allocated position for a period up to three (3) calendar months.

**Retitle** - occurs when the revision in the job specifications results in a change in the job title.

**Salary Rate** - a preestablished and designated rate of pay within the pay range for each job.

**Service Rating** - the individual rating of an employee, made in accordance with the service rating system established by these rules.

**Shift Differentials** - extra pay allowances made to employees who work nonstandard hours.

**Sick Leave** - leave with pay requested by and granted to an employee who is suffering from an illness, disability or other physical condition which prevents him from performing his usual duties and responsibilities or who requires medical, dental, optical or psychological consultation or treatment.

**State Service** - for layoff and layoff avoidance measures, means the total length of Classified State Service in the equivalent full-time years, months, and days as an employee of a State agency or agencies subject to the following:

- (a) periods of time not counted as Classified State Service under this definition for the purposes of layoff and layoff avoidance shall be:
  - 1. All leave without pay not expressly authorized in Subsection (b)9 of this Rule.

2. State service earned before retirement in any state retirement system by an employee rehired into state service after such retirement.
3. Unclassified State Service acquired after January 1, 1983, subject to the provisions of Subsection (b) of this Rule.
4. Classified State Service obtained after January 1, 1983, on a restricted or provisional appointment if such an appointment was not converted to a probational or job appointment.
5. Classified or Unclassified State Service on a part-time intermittent (i.e., when actually employed - WAE) appointment, if such service was acquired after January 1, 1983.

(b) Periods of time counted as Classified State Service under this definition for layoff or layoff avoidance measures are the following, which are all subject to Rule 1.39.2(a)2:

1. All time spent on any type of Classified and/or Unclassified appointment before January 1, 1983.
2. Classified State Service obtained after January 1, 1983, on probational, job and permanent appointments and on restricted or provisional appointments converted to probational or job appointments, subject to the provisions of Subsection (a) 5 of this Rule.
3. Absence from State Service of not more than one year as the result of a layoff of an employee with permanent status.
4. Any military service that interrupts Classified employment, including military service consisting of active duty in the armed forces of the United States for not more than six years of voluntary service or an indefinite period of involuntary service, subject to the provisions of Rule 17.21(a).
5. Separations of not more than thirty days from the Classified State Service, except that no breaks between emergency and/or restricted and/or multiple restricted appointments count.

6. Unclassified State Service acquired by an unclassified employee relative to his being brought into the Classified Service under Rule 8.27.
  7. Periods of time that the layoff avoidance measures stipulated in Rule 17.5(c), 17.12 and 17.13 are in effect for full-time employees shall count as full-time employment.
  8. All authorized leave with pay.
  9. Authorized leave without pay under the following conditions:
    - a. Any leave without pay taken before January 1, 1983.
    - b. Any period(s) of leave without pay which does not exceed 30 calendar days, if taken after January 1, 1983. Additionally, if any period of leave without pay taken after January 1, 1983 equals or exceeds a 30-calendar day period, i.e., a reportable action to the State Police Commission, 30 days on one reportable period shall be counted in any calendar year, i.e., January 1, 1983 through December 31, 1983.
    - c. To hold an unclassified office, job or position with the State.
    - d. Leave without pay for military purposes as provided in Rule 11.26.
    - e. If authorized for educational purposes and approved by the Director. Such education must be required by the agency, pertinent to the job or needs of the agency, and full-time as defined by the educational institution attended, except that a final semester's work toward a degree need not be full-time.
- (c) All periods of Classified State Service not expressly excluded or included in these Rules shall be submitted to the Director for a ruling.

**Suspension** - the enforced leave without pay of an employee for disciplinary purposes.

**Title Change** - a change in the title of the class to which a position is allocated without change in the position is allocated without change in the position's duty and responsibility content.

**Transfer** - the change of an employee from a position in one department to a position in another department without change in probational or permanent status and without a break in service of one or more working days.

**Unacceptable Rating** - a performance appraisal rating of either "**Needs Improvement**" or "**Unsatisfactory.**"

**Uniform Pay Plan** - a pay plan in which the pay structure and administrative rules are uniformly applicable to all agencies for positions of the Classified Service.

**Work Period** - 14-consecutive calendar days instead of the workweek for computing overtime pay.

## CHAPTER 2

### ORGANIZATION, RULES, PROCEDURES AND POWERS OF THE STATE POLICE COMMISSION

#### 2.1 Election of the Chairman and Vice-Chairman.

- (a) The members of the Commission shall meet and organize by electing one of its members Chairman and one of its members Vice-Chairman. In case of a vacancy in either office, the Commission shall elect a replacement from among its members.
- (b) The Chairman and Vice-Chairman shall be elected at the first meeting held following December 31 of each year.

#### 2.2 The Commission shall meet at such time and place as may be fixed by the Commission, the Chairman, or the Director. Notice of each meeting shall be given to all members of the Commission.

#### 2.3 Rules of Order.

The Commission shall not be bound by rules of order, evidence, or procedure in its meetings, hearings, or investigations except such as it may itself establish.

#### 2.4 Meetings Open to the Public.

- (a) All meetings and hearings of the Commission shall be open to the public except executive meetings.
- (b) The Commission may hold an executive meeting upon affirmative vote of two-thirds of its constituent members present, taken at an open meeting for which notice has been given pursuant to Rule 2.5. No final or binding action shall be taken during an executive meeting except as provided herein.
- (c) The Commission may hold an executive meeting for one or more of the following reasons:
  - (1) Discussion of the character, professional competence, or physical or mental health of a person, provided that such person may require that such discussion be held at an open meeting.
  - (2) Strategy sessions or negotiations with respect to collective bargaining, prospective litigation after formal written demand, or litigation when an open meeting would have a detrimental effect on the bargaining or litigation position of the Commission.

- (3) Discussion regarding the report, development, or course of action regarding security personnel, plans, or devices.
- (4) Investigative proceedings regarding allegations of misconduct.
- (5) Cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances or other matters of similar magnitude.
- (6) Discussion of any matter deemed confidential by these Rules, or State or Federal Law or Regulation.
- (7) Consideration and discussion of the merits of any appeal filed pursuant to these Rules. Final and binding action may be taken during an executive meeting held to discuss and decide such an appeal.

## 2.5 Notice of Meetings.

- (a) The Commission shall give written public notice of any regular, special, or rescheduled meeting no later than 24 hours before that meeting. Such notice shall include the agenda, date, time, and place of the meeting, provided that upon the approval of two-thirds of the members present at a meeting of the Commission, the Commission may take up a matter not on the agenda. In cases of extraordinary emergency, such notice shall not be required; however, the Commission shall give such notice of the meeting as it deems appropriate and circumstances permit.
- (b) Written public notice shall include:
  - (1) Posting a copy of the notice at the office of the director no less than 24 hours before the meeting.
  - (2) Mailing a copy of the notice to any member of the news media who requests notice of meetings of the Commission.

## 2.6 Quorum and Voting.

- (a) Four (4) members of the Commission shall constitute a quorum for the transaction of business.
- (b) The concurrence of a majority of the members present shall constitute a ruling upon an item of business then before the Commission.
- (c) In the event of a tie vote the Commission may, in its discretion,

1. Refer a transcript of the record of the matter under consideration to one or more absent members, who shall then vote; or
  2. Continue the matter for consideration at a later meeting.
- (d) Temporary absence during the consideration of an item of business shall not disqualify a member from voting on said item.

2.7 Secretary to the Commission.

The Director shall act as Secretary of the Commission and shall keep adequate records and minutes of its business and official actions.

2.8 Minutes of the Proceedings.

The minutes of the proceedings of the Commission shall be prepared and maintained by the Director on behalf of and subject to the approval of the Commission.

2.9 Powers of the Commission.

The Commission is empowered:

- (a) To represent the public interest in the improvement of personnel administration in the departments whose personnel practices are governed by the Article and the State Police Commission Rules.
- (b) To appoint and remove and otherwise discipline the Director.
- (c) To conduct investigations whenever it has reason to believe the provisions of the State Police Commission Article or Rules are being violated or have been violated by any person or department; and to hold public hearing when charges of such violations have been filed with it. The Commission may issue appropriate orders in any such case, in addition to those orders provided for in Subsections (k) and (l) of this Rule.
- (d) To make, alter, amend and promulgate Rules as authorized by the Article and otherwise to provide for the establishment and maintenance of a Civil Service system in departments of State government.
- (e) To hear appeals from employees and others who claim their rights under these Rules and the State Police Commission Article have been violated and to issue appropriate orders in such cases.
- (f) To perform such other acts as may from time to time be required of it by the Constitution or by Statute.

- (g) To take such steps as may be necessary to maintain proper order and decorum during the course of its hearings and other proceedings consistent with judicial resolution of matters coming before it for consideration.
- (h) To issue orders withholding compensation from any person who, after investigations by public hearings, has been found by the Commission to be employed or paid by the State contrary to the provisions of the Constitution or the Rules adopted thereunder. Such orders may be directed to the officer having authority to approve the payroll or assign the paycheck for such employee; and the officer to whom it is directed and any other person to whom such order is directed shall make no payment of compensation or authorize the making of any such payment to such person until authorized by the Commission upon penalty of personal liability for the sum so paid contrary to the order of the Commission and such other penalties as are otherwise provided by the Constitution and/or the Rules.
- (i) To enforce its rules, regulations, and orders in the courts of this State by mandamus or injunction suits.

#### 2.10 Adoption, Amendment or Repeal of Rules; Emergency Rule Changes.

- (a) Except as provided for herein in Rule 2.10(b), the adoption, amendment or repeal of any rule shall be approved by the Commission only upon thirty (30) days written notice and approval after a public hearing, and such adoption, amendment or repeal of any rule shall become effective upon approval of the Commission, unless the Commission specifically provides for another effective date.
- (b) If the Commission finds that an imminent peril to the public health, safety or welfare or another emergency requires adoption of a rule change without compliance with Rule 2.10(a), the adoption, amendment or repeal of any rule may be approved by the Commission.

#### 2.11 Contempt of the Commission.

A contempt of the Commission or its Referee is an act or omission tending to obstruct or interfere with the orderly discharge of the responsibilities and duties of the Commission or its Referee, or to impair the dignity of the Commission or its Referee or respect for their authority.

A contempt of the Commission includes, but is not limited to, any of the following acts:



- (a) Wilful failure to comply with a subpoena or summons to appear before the Commission or its Referee, proof of service of which appears of record.
- (b) Wilful violation of an order excluding, separating, or sequestering a witness.
- (c) Refusal to take the oath or affirmation as a witness, or refusal of a witness to answer a non-incriminating question when ordered to do so by the Commission or its Referee.
- (d) Insolent or disorderly behavior toward the Commission or an attorney or other officer or Referee of the Commission, tending to interrupt or to interfere with the business of the Commission or its Referee or to impair its dignity or respect for its authority.
- (e) Breach of the peace, boisterous conduct, or violent disturbance tending to interrupt or to interfere with the business of the Commission or its Referee or to impair its dignity or respect for its authority.
- (f) Use of insulting, abusive or discourteous language by an attorney or other person before the Commission or its Referee, or in a motion, plea, brief or other document filed with the Commission or its Referee in irrelevant criticism of the Commission, a Commissioner, an attorney, The Director or his staff, or an officer or Referee of the Commission.
- (g) Action by any person taken or ordered to be taken without approval of the Commission when such approval for the actions is required by either the State Constitution or by the State Police Commission Rules.
- (h) Failure of any person to comply with any order or directive of the Commission unless otherwise stayed by a Court of proper jurisdiction or unless within the time limits for such compliance provided by applicable rule or law.
- (i) Wilful failure of an attorney to appear at the time and place set for the hearing in which he is to participate.

#### 2.11.1 Cooperation of Persons Within the State Police Service with the Department Of State Civil Service.

- (a) Upon request by certified letter from the Director of the Department of State Civil Service, or his representative, all persons within the State Police Service so notified shall fully cooperate with any public investigation being conducted by the Department of State Civil Service, including being interviewed and truthfully answering all questions and/or providing all requested documents.

- (b) Failure of any person within the State Police Service to fully and truthfully cooperate in public investigations being conducted by the Department of State Civil Service shall constitute contempt of the State Police Commission, and such persons shall be punished accordingly.

#### 2.12 Procedure for Punishing for Contempt.

- (a) When a person has committed a contempt of the Commission or a Referee in the presence of the Commission or a Referee, he may be found guilty and punished therefore by the Commission or Referee forthwith, without any trial other affording him an opportunity to be heard orally by way of defense or mitigation.
- (b) When a person is charged with committing a contempt outside of the presence of the Commission or a Referee, he shall be tried by the Commission or the Referee on a Rule to show cause alleging the facts constituting the contempt. The Rule may be issued by the Commission or Referee on its own motion, or on motion of the Director.
- (c) A copy of the motion and of the Rule shall be served on the person charged, in the manner of a subpoena, not less than forty-eight hours prior to the time assigned for trial of the Rule.
- (d) If a person charged with contempt is found guilty, the Commission or a Referee shall render an order reciting the facts constituting the contempt, adjudging the person charged with the contempt guilty thereof, and specifying the punishment imposed.
- (e) Should a person served in accordance with this Rule fail to appear at the time, date, and place set for the hearing on the Rule, the Commission or Referee may order any law enforcement officer to apprehend and to bring before the Commission or Referee the person charged with contempt, to proceed with the hearing in the absence of the person charged, or to institute proceedings before the judiciary of this State as the Commission or Referee deems proper.

#### 2.13 Penalties for Contempt.

- (a) In addition to that which is provided for in these rules, the Commission or a Referee may punish a person adjudged guilty of contempt of the Commission or the Referee by a fine of not more than five hundred dollars (\$500.00).

## 2.14 Commanding Immediate Presence.

In addition to that which is provided for herein, the Commission or a Referee may order any law enforcement officer to locate and bring before the Commission or the Referee, any person who fails to appear at a hearing pursuant to a subpoena if proof of service appears of record and if the immediate presence of that person will facilitate the progress of the subject hearing.

## \*2.15 Opportunity to Address Commission.

- (a) In order to inform itself, so as to better perform its executive and legislative functions, during regularly or specially scheduled meetings, or otherwise as determined by the Commission, the Commission may provide an opportunity for employees and/or others to address the Commission on subjects relevant to its jurisdiction.
- (b) Matters relating to specific individual circumstances, which are, may or should be the subject of an appeal to the Commission, and/or requests for specific relief for individuals shall not be heard during such proceeding.
- (c) Except as provided by Rule 2.5(a), only persons and/or issues scheduled by agenda prior to the meeting may be heard during such proceeding.
- (d) Employees and/or others wishing to be placed on the Commission's agenda for such purpose must make a written request for such, to be received by the Director at least ten days prior to the meeting at which they wish to appear.

The request to appear shall state the topic and nature of the appearance and of the information to be presented to the Commission, in the absence of which, such requests shall not be considered by the Director.

The Director or the Commission may, by policy, limit the amount of time allotted to individuals and/or the total amount of time allotted to such proceeding.

- (e) Within the Director's discretion, the Director shall determine whether a request is placed on the Commission's agenda, and the number of persons to be placed on a particular agenda.

Except where such is impracticable, at least five days prior to the Commission meeting, the Director shall mail notification to or otherwise notify the person making the request that they have been placed on the Commission's agenda and of the date, time and place of such appearance, or that the request has been declined or not considered. When a request is declined or not considered, the Director shall state the

reason for such in writing, a copy of which shall be sent to each Commission member.