

# State Police Commission

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October 28, 2002

Transmittal Sheet No. 36

Subject: Adoption of State Police Commission Rules 8.12(a) and (b); and 11.26(a) through (f).

Effective Date: September 11, 2001

At its meeting on September 19, 2002, on motion duly made and seconded, by unanimous vote of the members present, the State Police Commission voted to adopt State Police Commission Rules 8.12(a) and (b); and 11.26(a) through (f). Attached are complete copies of Chapters 8 and 11 for inclusion in your Rules.

Sincerely,  
*Debra L. Johnson*  
Debra L. Johnson  
Director

Attachment

## CHAPTER 8

### CERTIFICATION AND APPOINTMENT

#### 8.1 Methods of Filling Vacancies.

Vacancies in the State Police Service may be filled by original appointment or by promotion, reassignment, demotion, transfer, reinstatement following an appeal, restoration to duty following military service, or noncompetitive reemployment.

8.2 When proposing to fill a vacancy by original appointment, the appointing authority shall request the Director to certify the names of persons eligible for appointment, furnishing such information about the vacancy as may be necessary for the Director to decide those persons eligible for appointment.

#### 8.3 Anticipation of Need.

As far as practicable, each vacancy shall be anticipated sufficiently in advance to permit the Director to issue an announcement, if necessary, and to establish a list of eligibles.

#### 8.4 Certification of Eligibles.

(a) The Director, in issuing certificates, shall certify to the appointing authority the names of the highest ranking eligibles from the appropriate list for the class of the vacant position.

(b) The Director may establish a range of certifiable scores for any job class, and may permit competitive employment of applicants who have attained scores within that range.

#### 8.5 Selective Certification.

(a) When requested and adequately justified by the appointing authority, the Director may selectively certify from an eligible list the names of eligibles who possess particular qualification.

(b) In specific instances, and pursuant to and in conformity with an order of the State Police Commission, a court, or other commission, or agency of competent jurisdiction, the Director may make, or permit the appointing authority to make, selective certification.

#### 8.6 Determination of Availability for Appointment.

(a) The appointing authority or its agent shall determine the availability of the eligibles certified for appointment and shall submit to the Director written

evidence of unavailability or failure to reply, unless a selection is made from one of the eligibles within the five highest final grade groups, or the certifiable band of scores, whichever is applicable.

- (b) If a certified eligible indicates unavailability for appointment, or fails to reply to an availability inquiry within ten (10) calendar days after mailing of notification, the appointing authority may consider that individual as having been removed from the certificate.

#### 8.7 Appointment of Eligibles from Certificates.

- (a) Except as provided in subsection (b) hereof, appointment from certificates must be made from one of the eligibles within the five highest final grade groups, or certifiable band of scores, except in making appointments from a department preferred re-employment list, in which case the highest ranking eligible shall be appointed. All candidates having the same final grade will be considered as "a grade group." When processing a certificate of eligibles, if five or more candidates whose names are among the five highest final grade groups express availability for a vacancy, appointment will be restricted to such candidates. If one or more of the five top grade groups is eliminated in accord with the Rules, the appointing authority may proceed to the next final grade group, or groups, until there are at least five grade groups from which to choose. Certificates showing action taken thereon must be returned by the expiration date specified on the certificate, unless the Director extends the time. In each case of appointment, such appointment shall become effective on the day the appointee begins duty.
- (b) If a certificate contains the name of an eligible who has previously been subjected to removal or dismissal by the appointing authority, or who has resigned to escape possible disciplinary action, they may be removed from consideration, and if there are fewer than five final grade groups remaining, the appointing authority may proceed to the next group, or groups, until there are at least five final grade groups.

#### 8.8 Probationary Appointment.

When a vacancy in a position is filled by an original appointment of an eligible, such appointee shall serve a probationary period. The probationary period shall be from the date of appointment to the State Police service, and extending through twelve (12) months from the date of graduation from the State Police Training Academy. For employees who are non-competitively re-employed, such probationary period shall be twelve (12) months from the date of re-employment.

8.9 Job Appointment.

- (a) Temporary appointments for specified periods not exceeding twelve (12) months may be made when an employee is needed for temporary work or to substitute for a permanent or probationary employee.
- (b) The Director may authorize the appointment of any person who possesses the minimum qualifications stated in the class specifications.

8.10 (a) Reassignment.

The Appointing Authority may, with the approval of the Director, reassign any probationary or permanent employee from one position in a class to another position in a different class for which the employee is qualified and which has the same hiring rate of pay.

(b) Change in Hours of Work.

The appointing authority may, in the best interest of the State Police program, change the hours of work of any employee, if no change in the employee's class of position is affected.

(c) Change in Duty Station.

1. The appointing authority may change the duty station of a permanent or probationary employee from one geographical area to another with or without the consent of the employee for a period not to exceed ninety (90) days, provided that the employer shall pay or provide all related expenses to the employee in accordance with State Travel Regulations.
2. The appointing authority may permanently change the duty station of a permanent employee from one geographical area to another with the consent of the employee, in which case the employer may, at the employer's option, pay all related moving and housing expenses. Such change shall be reported to the Director.
3. The appointing authority may permanently change the duty station of a permanent or probationary employee from one geographical area to another without the consent of the employee, provided that the change is necessary to accomplish the department's mission, is, before such change, approved by the Commission at a public hearing, and provided that the employer shall pay all related moving and housing expenses.

(d) Detail to Special Duty.

1. When, in the discretion of the appointing authority, the services of an employee are temporarily needed in a higher position within the department, other than the position to which the employee is regularly assigned, the employee may be detailed to perform the duties of such position for a period not to exceed thirty (30) calendar days without change in title, status or pay.
2. If the detail exceeds thirty (30) calendar days, within five (5) business days after that, the employee shall be officially detailed into the position, with the approval of the Director. The notice of the official detail shall state the position and class to which the employee has been temporarily assigned, and briefly describe the duties such employee is then performing in the detail, and the anticipated duration of the detail.
3. When an employee is officially detailed to special duty, the employee shall be retroactively paid at the rate they could receive upon promotion to such position, all in accordance with Rule 6.11.
4. An employee detailed into a position must meet the minimum qualifications for the detailed job.

(e) Temporary Duty Assignment (TDY).

1. When in the discretion of the appointing authority, the services of an employee are temporarily needed in a position within the same or lower class, an employee may be assigned to such temporary duty for a period not to exceed one hundred eighty (180) days. Such assignment to temporary duty shall not affect the employee's title, status or pay.
2. When a temporary duty assignment exceeds thirty (30) calendar days, the appointing authority shall, within five (5) business days after that, report such temporary duty assignment to the Director in writing. The notification shall briefly describe the assigned temporary duties to be performed, and the anticipated duration of the temporary assignment.
3. When the assignment to temporary duty requires a change in the employee's duty station from one geographical area to another, the appointing authority shall pay all related expenses of such temporary assignment, in accordance with State Travel Regulations.

8.11 Noncompetitive Re-employment Based on Prior State Service.

- (a) Subject to the provision of Subsection (d) hereof and with the approval of the Director, a former permanent employee who has been separated from the classified State Police Service may, within five (5) years from separation, be noncompetitively re-employed in any job for which the former employee is qualified and which has the same or lower entrance salary as the current hiring rate for the job in which the employee had permanent status. Further, if the job in which an employee or former employee held permanent status undergoes a change in title, other than an upward reallocation of the position after the employee separated from it, or undergoes a change in minimum qualification requirements, the former employee shall not lose this re-employment eligibility for such position or lower position in the same job series, if such exists, except where the qualification lacking is one required by law or under a recognized accreditation program. In this case eligibility remains, even if the entrance pay has moved upward. Further, the employee shall be eligible to be re-employed in any other job at the same or lower current entrance pay as the job to which their former position changed in title, provided the former employee meets the minimum qualification requirements.
- (b) No former employee whose last separation from the classified service was by removal due to delinquency, misconduct, unsatisfactory performance or by resignation to escape possible disciplinary action shall be eligible for noncompetitive re-employment under the provisions of this Rule; nor shall any person acquire eligibility for noncompetitive re-employment through service in a position from which they were separated or demoted for delinquency, misconduct or unsatisfactory performance.

8.12 Restoration of Duty Upon Return from Military Service.

Any employee, who subsequent to June 24, 1948, has left or leaves a classified position in which he was or is serving with provisional, probationary or permanent status, for 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 and who upon separation from the armed forces of the United States by honorable discharge or under honorable conditions makes application for re-employment within ninety days thereof or within ninety days after he is released from hospitalization continuing after discharge for a period of not more than one year shall:

- (a) If still qualified to perform the duties of such position, be restored by the department to such position or to a position of like seniority, status and pay;  
or

- (b) If not qualified to perform the duties of such position by reason of disability sustained during such service but qualified to perform duties of any other position in the department where he formerly worked be restored to such other position the duties of which he is qualified to perform as will provide him like seniority, status and pay or the nearest approximation thereof consistent with the circumstances in his case.

#### 8.13 Promotion.

- (a) Subject to the provisions of Rules 8.7, each promotion shall be made by appointing one of the eligibles within the five highest final grade groups on a promotional certificate issued by the Director following competitive examination. If there are five (5) or fewer qualified applicants for a vacancy, the Director may declare a noncompetitive situation and forego testing for that vacancy. In such case, the applicants shall be rated "Eligible."
- (b) The Director shall issue a promotional certificate from a register of eligibles established following a competitive promotional examination. Candidates shall be certified in grade order.
- (c) The Director shall not include in any promotional certification, nor authorize the non-competitive promotion, of the name of an employee having a current unacceptable service rating (i.e., "needs improvement" or "unsatisfactory").

#### 8.14 Demotion.

A permanent or probationary employee may be demoted for cause, or at the employee's request, to any position for which the employee possesses the qualifications specified in the appropriate standards of requirements for such position.

#### 8.15 Fingerprinting of Employees.

All applicants for the State Police classified service shall be required to provide a classifiable set of fingerprints.

#### 8.16 Substance Abuse Testing.

The Office of State Police may establish and implement a policy of substance abuse testing of candidates and employees, pursuant to State law.

#### 8.17 Cancellation of Eligibility for Appointment.

- (a) The Director shall cancel the employment eligibility of any applicants, or

of any probational or temporary employees, following certification or employment if:

1. Their employment in the State Police Service would be prohibited by law; or
  2. They are prohibited from employment for any of the reasons listed in Rule 7.5(a).
- (b) An applicant whose employment eligibility has been canceled under this Rule shall be notified promptly by the Director.
- (c) The Director shall notify the employee and the appointing authority immediately when an employee's eligibility has been canceled in accordance with this Rule, and the appointing authority shall terminate the employee from State Police within five (5) days of receipt of such notice.



## CHAPTER 11

### HOURS OF WORK, ANNUAL, SICK AND OTHER FORMS OF LEAVE

#### 11.1 Full-Time Employees.

- (a) Subject to the provisions of subsections (b) and (c) hereof, the work week for each full-time employee in the classified service shall be forty (40) hours.
- (b) An appointing authority, with the approval of the Commission, may specify a work week exceeding forty (40) hours for employees in specific classes of positions within his agency, or for employees in specific divisions or activities within his agency.
- (c) Subject to the provisions of subsections (a) and (b) of this Rule, the appropriate appointing authority shall designate and record the number of hours and days which will constitute the regular work week of each full-time employee.
- (d) Each specification prepared under the provisions of subsection (b) of this Rule shall be filed with the Director.

#### 11.2 Part-Time Employees.

- (a) When the services of an employee are not needed on a full-time basis his appointing authority may establish a regular tour of duty for him on a part-time basis.
- (b) The appropriate appointing authority shall designate and record the number of hours and days which will constitute the regular work week of each part-time employee.

#### 11.3 Intermittent Workers.

When the services of an employee are not needed on a regularly scheduled basis, the appointing authority may appoint an employee to serve on an intermittent hourly, daily, weekly or monthly basis.

##### 11.3.1 Authority To Require Performance of Overtime.

An employee in the classified service may be required by his appointing authority to work overtime.

#### 11.4 Repealed and re-enacted effective July 1, 1973 as Rules 1.3.1 and 1.39.1.

## 11.5 Earning of Annual and Sick Leave.

- (a) Annual and sick leave shall be earned by each full-time and each part-time employee who has a regular tour of duty, except that no employee shall earn annual or sick leave while serving on restricted appointment.
- (b) The earning of such leave shall be based on the equivalent of years of full-time State service and shall be creditable at the end of each calendar month or at the end of each regular pay period in accordance with the following general schedule.
  - 1. Less than three years of service, at the rate of .0461 hour of annual leave and .0461 hour of sick leave for each hour of regular duty.
  - 2. Three years but less than five years of service, at the rate of .0576 hour of annual leave and .0576 hour of sick leave for each hour of regular duty.
  - 3. Five years but less than ten years of service, at the rate of .0692 hour of annual leave and .0692 hour of sick leave for each hour of regular duty.
  - 4. Ten years but less than fifteen years of service, at the rate of .0807 hour of annual leave and .0807 hour of sick leave for each hour of regular duty.
  - 5. Fifteen or more years of service, at the rate of .0923 hour of annual leave and .0923 hour of sick leave for each hour of regular duty.
- (c) Repealed, effective July 1, 1973.
- (d) No employee shall be credited with annual or sick leave
  - 1. For any overtime hour.
  - 2. For any hour of leave without pay.
  - 3. While he is on leave with or without pay, until such time as he returns to active working duty, except where inability to return to duty is caused by illness or incapacity as defined by Rule 1.39.1.
  - 4. For any hour in on-call status outside his regular duty hours as defined in Rules 11.1 and 11.2.

5. For any hour of travel or other activity outside his regular duty hours as defined in Rules 11.1 and 11.2.
6. For any hour of a holiday or other non-work day which occurs while he is on leave without pay.

11.6 Carrying Leave Forward.

- (a) Accrued unused annual and sick leave earned by an employee shall be carried forward to succeeding calendar years.
- (b) Repealed, effective March 15, 1973.

11.7 Use of Annual Leave.

- (a) Annual leave must be applied for by the employee and may be used only when approved by the appointing authority or his designated representative.
- (b) Annual leave shall not be charged for non-work days.
- (c) The minimum charge to annual leave records shall not be less than one-half hour.

11.8 Repealed, effective December 17, 1957.

11.9 Enforced Annual Leave.

- (a) Subject to subsection (b) hereof, and military leave provisions in Rule 11.26, an appointing authority may require an employee to take annual leave whenever in his administrative judgment such action would be in the best interest of the Department.
- (b) No employee shall be required to reduce his accrued annual leave to less than 240 hours; however, subject to the military leave provisions of Rule 11.26, an employee may be required to take any part or all of his accrued annual leave prior to being granted leave without pay.

11.10 Payment For Annual Leave Upon Separation.

- (a) Subject to Sub-section (b) of this Rule each employee upon separation from the Classified Service shall be paid the value of his accrued annual leave in a lump sum disregarding any final fraction of an hour; provided, that the privileges of this rule shall not extend to any employee who is terminated for theft of agency fund or property. The payment for such

leave shall be computed as follows:

1. When an employee is paid wages on an hourly basis, multiply his regular hourly rate by the number of hours of accrued annual leave.
  2. When an employee is paid on other than an hourly basis, determine his hourly rate by converting his salary in accordance with provisions in the uniform pay plan for conversion to a working hourly rate. multiply his converted hourly rate by the number of hours of accrued annual leave.
- (b) No terminal payment for annual leave earned under these Rules shall exceed the value of 300 hours, computed on the basis of the employee's hourly rate of pay at the time of his separation.
- (c) No payment for annual leave under this Rule shall operate to continue the payee as a Classified employee beyond the last day of active duty.
- (d) Payment for annual leave earned under administrative rules or regulations in effect prior to July 1, 1953 may be made upon termination in accord with such rules or regulations.
- (e) When an employee who has been paid under this Rule for accumulated annual leave is re-employed in a classified position, he shall pay the Department which re-employs him the value of such annual leave at the rate paid him less the value of working hours for which he has been paid which intervene between the last day worked and the date of reemployment and shall be given credit for the number of hours of annual leave for which he has made reimbursement.
- (f) Repealed and reenacted as Sub-section (d)6 of Rule 11.5, effective July 1, 1973.
- (g) Repealed, effective June 8, 1983.

11.11 Repealed, effective December 17, 1957.

11.12 Repealed, effective December 17, 1957.

11.13 Use of Sick Leave.

- (a) Sick leave may be utilized by an employee who has sufficient leave to his credit for necessary absence from duty because of:

1. Illness or injury which prevents him from performing his usual duties.
  2. Medical, dental, or optical consultation or treatment.
  3. Repealed, effective January 1, 1963.
- (b) Sick leave shall not be charged for non-work days.
- (c) The minimum charge for sick leave shall be one-half hour.
- (d) Repealed, effective June 30, 1972.

#### 11.14 Certificate Required When Sick Leave Taken.

An employee who has taken sick leave shall file with his appointing authority a certificate stating the cause of his absence and the amount of time taken. The appointing authority may require a statement from a registered physician or some other acceptable proof that the employee was ill and unable to report to work.

11.15 Repealed, effective July 11, 1984.

11.16 Repealed, effective December 17, 1957.

11.17 Repealed, effective December 17, 1957.

#### 11.18 Cancellation or Continuance of Annual and Sick Leave.

- (a) All annual leave accrued by an employee whose services are terminated for cause except that for which he must be paid, and all sick leave accrued by him shall be canceled at the time of termination.
- (b) All annual leave accrued by an employee for which he is not paid upon being laid off and all sick leave accumulated by him shall again be credited to him if he is re-employed within five years following his layoff: provided, that this Subsection shall apply only to a laid off employee who is re-employed on or after January 1, 1972.
- (c) Repealed, effective December 17, 1957.
- (d) Subject to the provisions of Rule 11.19(c), all annual leave accrued by an employee for which he is not paid upon resignation and all unused sick leave accumulated by him shall again be credited to him if he is later employed with probationary, or permanent appointment status in the

classified service within a period of five years from date of separation; provided, that the privileges of this Rule shall not extend to any employee whose last separation from the Classified Service was by resignation to escape possible disciplinary action.

- (e) Subject to the provisions of Rule 11.19 and Subsection (d) hereof, all annual leave for which he is not paid upon resignation and all sick leave accrued by an employee who resigns shall be canceled.

#### 11.19 Transferring Annual and Sick Leave Between Departments.

- (a) Repealed, effective July 1, 1973.
- (b) Subject to the provisions of Subsection (c) of this Rule, all annual leave accrued by an employee for which he is not paid and all sick leave accrued by him whenever he changes from employment in one department to employment in another department within a period of thirty calendar days shall be certified by his former department to the other department and shall be credited to the employee.
- (c) All annual leave accrued by an employee for which he was not paid and all sick leave accrued by him at time of separation to enter military service shall be credited to him upon his reemployment in a classified position following such military service.
- (d) The annual and sick leave credits of an unclassified employee, earned under the provisions of an Executive Order of the Governor, who enters the Classified Service without a break in service on one or more working days, shall be certified and credited in the same manner as provided in this Rule for classified employees.

#### 11.20 Repealed, effective December 17, 1957.

#### 11.21 Workmen's Compensation Payments.

When an employee is absent from work due to disabilities for which he is entitled to workmen's compensation he

- (a) shall, to the extent of the amount accrued to his credit, be granted sick leave not to exceed the amount necessary to receive total payments for leave and workmen's compensation equal to his regular salary.
- (b) may, to the extent of the amount accrued to his credit, be granted annual leave or a combination of annual and sick leave not to exceed the amount necessary to receive total payments for leave and workmen's

compensation equal to his regular salary.

- (c) may be granted leave without pay.

#### 11.21.1

- (a) When an employee engaged in law enforcement work is disabled while in the performance of duty of a hazardous nature, and because of such disability is unable to perform his usual duties, his appointing authority may, with prior approval of the Director, grant such disabled employee a leave of absence with full pay not to exceed six months during the period of such disability without charge against the employee's accumulated sick or annual leave, provided such employee must pay to his Department all amounts received by him as Workmen's Compensation benefits. Requests for such leave shall be submitted in writing by the appointing authority and shall include all information necessary to determine whether an employee is covered by this Rule.
- (b) If a request, made in accordance with the provisions of Subsection (a) of this Rule, is found to be questionable or if the leave requested exceeds or later extends beyond six months, the Director shall submit such request to the Commission for its review and approval.

11.22 Repealed, effective December 16, 1957.

#### 11.23 Civil, Emergency, and Special Leave.

An employee shall be given time off without loss of pay, annual leave, or sick leave when

- (a) Performing jury duty.
- (b) Summoned to appear as a witness before a court, grand jury, or other public body or commission, provided that for purposes of this Subsection a plaintiff or defendant shall not be considered a witness, nor shall this Subsection apply to an employee summoned as a witness as a result of employment other than State employees.
- (c) Performing emergency civilian duty in relation to national defense.
- (d) His appointing authority determines that he is prevented by an act of God from performing duty.
- (e) Amended and Re-enacted effective January 11, 1989 as Rule 11.23.2.

- (f) Participating in a State Police Commission examination on a regular work day, or taking a required examination pertinent to the examinee's State employment, before a State licensing board.
- (g) The appointing authority determines that because of local conditions or celebrations it is impracticable for his employees in such locality to work.
- (h) The employee is ordered to report for pre-induction physical examination incident to possible entry into the military forces of the United States.
- (i) The employee is a member of the National Guard and is ordered to active duty incident to local emergency, act of God, civil or criminal insurrection, civil or criminal disobedience, or similar occurrences of an extraordinary and emergent nature which threatens or affects the peace of property of the people.
- (j) Engaged in the representation of a client in a criminal proceeding pursuant to an order of a court of competent jurisdiction, provided if compensation for such services is available from another source, he may not accept the special leave and the compensation.
- (k) The employee is a current member of a Civil Air Patrol and incident to such membership is order to perform duty with troops or participate in field exercises or training, except that such leave shall not exceed 15 working days in any one calendar year and shall not be used for unit meeting or training conducted during such meetings.

#### 11.23.1 Funeral Leave.

Probationary and permanent employees may be granted time off without loss of pay, annual leave or sick leave when attending the funeral or burial rites of a parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, spouse, mother-in-law, father-in-law, grandparent, or grand-child; provided such time off shall not exceed three (3) days on any one occasion.

#### 11.23.2 Voting Leave.

A probationary or permanent employee may be granted time off without loss of pay, annual leave or sick leave when voting in a primary, general or special election which falls in his regularly scheduled work day, provided not more than two hours of leave shall be allowed to vote in the parish where he is employed and not more than one day to vote in another parish.



#### 11.24 Educational Leave.

- (a) Leave without pay for educational purposes may be granted an employee for a period equivalent to the period of attendance at the educational institution.
- (b) Educational leave with pay may be granted an employee for a maximum of thirty calendar days in one calendar year if the course of instruction to be taken is pertinent to the work of the employee in his Department, provided that a permanent employee may be granted such leave for a maximum of ninety calendar days in one calendar year if the Department requires him to take special training.
- (c) Employees granted educational leave without pay may be granted a stipend if there are funds available for that purpose.

#### 11.25 Repealed, effective June 30, 1972.

#### 11.26 Military Leave.

The provisions of this rule shall apply to members of a Reserve Component of the Armed Forces of the United States who are called to duty for military purposes, and to members of National Guard Units which are called to active duty as a result of a non-local or non-state emergency.

- (a) Military Leave With Pay.
  - 1. Provided they give advance notice, employees serving on a job appointment, provisional, probationary or permanent status, shall be entitled to military leave with pay.
  - 2. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.
  - 3. Maximum military leave with pay for military purposes is fifteen (15) working days per calendar year.
- (b) Use of Annual and Compensatory Leave for Military Purposes.
  - 1. Employees serving on job appointment, provisional, probationary or permanent status, who give advance notice of military obligations and apply for annual or compensatory leave for military purposes, shall be granted such leave.

2. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.

(c) Use of Leave Without Pay for Military Purposes.

Employees serving on job appointment, provisional, probationary or permanent status, who have either exhausted annual leave and compensatory time or choose not to use their paid leave for military purposes, shall be placed on leave without pay. This period of leave without pay for military purposes shall not exceed six years. After six years, he/she shall be separated from the classified service. This rule does not extend the term of temporary appointments which were made for less than six years; if the original term of the appointment was less than six years, the agency may end the appointment as originally scheduled and the employee may be separated.

(d) Rights Upon Return.

Provisional, probational and permanent employees and employees serving on job appointments returning to their classified positions under the provisions of this Rule or Rule 8.12, which governs time frame requirements for restoration to state employment, shall return with such seniority, status, pay, and annual and sick leave accrual rates as they would have had if they had not been absent for military training or military active duty; however, both provisional and probational status shall be governed by the provisions of Rule 9.4.

- (e) The provisions of this section of the rule apply to employees serving on job appointment, provisional, probationary or permanent status, who are called to active duty, and who are on Leave Without Pay by choice or because all annual and/or compensatory leave has been exhausted. The provisions of this rule shall apply retroactively to September 11, 2001. The provisions of this subsection shall NOT apply to employees on "inactive duty for training" (i.e, week-end drills.)

1. When Military Leave with Pay, as provided in Rule 11.26(a) has been exhausted, an employee whose military base pay is less than his state base pay, shall be paid the difference between his military base pay and his state base pay in his regular position. Such payment shall be made on the same frequency and manner as the employee's regular state pay, unless other voluntary arrangements are made. Employees receiving the pay differential shall provide to the appointing authority any documentation appropriate to ensure the payment amount is calculated correctly.

Employees who choose to use their annual leave during their period of military absence shall not be eligible for receipt of the pay differential, unless the leave was used between September 11, 2001, and the date of the adoption of this rule, in which case subparagraph (4) shall apply.

2. Employees shall continue to accrue sick and annual leave for the entire period of service, beginning the date of the service. Leave shall be accrued on the same basis as though the employee had not been activated. Leave earned shall be credited to the employee upon his return from active duty.
  3. Employees who are on Leave Without Pay shall receive, each calendar year, the full fifteen (15) days of Military Leave with Pay provided for in Rule 11.26(a)3. The pay differential allowed in Rule 11.26(e)1, shall be suspended until the fifteen (15) day Military Leave with Pay period is exhausted and the employee returns to Leave Without Pay status.
  4. If paid leave has been used during any portion of service from September 11, 2001, through the date of adoption of this rule, an employee who chooses to use the pay differential option shall have his leave balance re-credited with a leave amount equal to the value of the pay differential the employee would have received had this rule been in effect on September 11, 2001.
- (f) A probationary or permanent employee, who was called to active duty for military purposes, and who resigned from state service may, at his request, and within ninety (90) days of his release from active duty, have his resignation rescinded and become eligible for the benefits of subsection (e) of this rule.

#### 11.27 Leave of Absence Without Pay.

- (a) An appointing authority may extend leave of absence without pay to an employee for a period not to exceed one year, provided that such leave shall not prolong the period of his appointment.
- (b) After presenting justifiable reasons in writing to the Director and with the approval, an appointing authority may extend to a permanent employee leave of absence without pay for a period or periods in excess of one year.
- (c) The appointing of a provisional employee who fails to return to duty in pay status on or before the first working day following the expiration

date of any period of leave without pay extended him shall terminate as of the close of business on such expiration date.

- (d) The appointment of an employee who has not completed his probationary period and who fails to return to duty in pay status on or before the first working day following the expiration date of any period of leave without pay extended him shall terminate as of the close of business on such expiration.
- (e) A permanent employee who has been extended leave of absence without pay under the provisions of Subsection (a) or (b), or both, hereof shall be restored to duty in pay status on or before the first working day following the expiration of such leave of absence. If the employee fails to report for or refuses to be restored to duty in pay status on the first working day following the expiration of his approved leave of absence without pay, or at an earlier day upon reasonable and proper notice from his appointing authority, he shall be considered as having deserted his position and shall be removed in accordance with the provisions of Chapter 12 of these Rules.
- (f) An appointing authority on its own initiative or at the request of the employee may curtail a period of leave of absence without pay extended to an employee, provided such curtailment is for the best interest of the State service and reasonable and proper notice thereof is furnished to the employee. Curtailment must not conflict with the provisions of Rule 11.26(b).
- (g) In addition to any disciplinary action which may be imposed against an employee for an unapproved absence, such employee may be placed on leave without pay by his appointing authority for the period of unapproved absence.

#### 11.27.1 Leave of Absence to Assume Unclassified Position.

- (a) Notwithstanding the provision of Rule 11.27(a) and/or (b), upon the acceptance by a permanent employee of a position in the unclassified State Police Service, the employee shall be placed on a leave of absence without pay. The leave of absence shall continue until the employee leaves the unclassified position by termination or resignation.

Upon placing the employee on such leave of absence, that employee's position and all vacancies within the chain of command created by the filling of that position may only be filled on a permanent basis.

- (b) An employee, who has been placed on a leave of absence without pay under the provisions of Subsection (a) hereof, shall be restored to duty, in pay status, on the first working day following the effective date of their termination or resignation from their unclassified position.

If, without valid excuse, the employee fails to report for or refuses to be restored to duty in pay status as provided for in the preceding paragraph, he or she shall be considered as having deserted their position and shall be removed in accordance with the provisions of Chapter 12 of these Rules.

- (c) A probationary employee shall not be placed on leave to serve in an unclassified position.
- (d) If, upon the return of an employee from an unclassified position, their classification position is occupied, the employee with the greatest length of total state service shall retain that position. In such case, the employee with the lesser amount of total state service shall be displaced from that position in accordance with the provisions of Chapter 17.

#### 11.28 Holidays.

- (a) An employee who is required by his appointing authority to work on his official holiday, shall be entitled to compensatory leave or overtime pay benefits as authorized in Rule 6.23(a).
- (b) When a holiday falls on an employee's regular day off, and the appointing authority required the employee to work on his designated holiday and the actual holiday, the appointing authority shall select only of the two days as the employee's official holiday for overtime compensation as provided by Rule 6.23. The other day is to be compensated as regular overtime work.
- (c) Repealed, effective June 7, 1989.

#### 11.29 Compensatory Leave.

- (a) Subject to provision of Subsections (b) and (g) of this Rule, and in accordance with Rule 6.18 through 6.27 and the requirements of Federal rules, statutes, regulations and judicial decisions, an employee who is required to perform overtime duty may, at the option of the appointing authority, be credited with compensatory leave for the hours he has been required to work.

- (b) Compensatory leave shall not be credited to any employee in the classified service while he is serving on an intermittent basis.
- (c) Subject to the provisions of Subsections (e) and (f) of this Rule, compensatory leave credited to an employee may be used by him, with the approval of his appointing authority.
- (d) An employee who has been credited with compensatory leave may be required, by his appointing authority, to take all or part of such leave at any time.
- (e) Upon separation or transfer from a department, the following shall apply to compensatory leave balances:
  - 1. All unused compensatory leave earned at the time and one-half rate and credited to an employee shall be paid upon his separation or transfer from the department in which he earned it at one of the rates below, whichever is higher:
    - (a) The average regular rate received by the employee during the last three years of his employment, or
    - (b) The final regular rate received by the employee.
  - 2. All unused compensatory leave earned hour for hour and credited to an employee may be paid upon his separation or transfer from the department in which he earned it at the final regular rate received by the employee, excluding premium pay, shift differential, and non-cash compensation.
  - 3. All unused compensatory leave earned hour for hour, if not paid to the employee upon separation shall be canceled upon his separation or transfer from the department in which he earned it. Such leave shall not be re-credited to him upon his reemployment in that or any other department.
- (f) Caps on accumulation of compensatory leave are found under the provisions of Rule 6.25. Excess accumulation of compensatory leave earned hour for hour (non-Fair Labor Standards Act) will be canceled at the end of the calendar year.
- (g) When in his administrative judgment, an appointing authority determines that overtime duty must be performed by one or more of his employees incident to national or local emergency, act of God, civil or criminal insurrection, civil or criminal disobedience, or similar

occurrences of an extraordinary and emergent nature which threatens or affects the peace or property of the people, he may require such employees to perform overtime duty; and the provisions of Rules 11.29(a), 6.20, 6.21, 6.22, and 6.23 shall not apply to such duty unless such overtime is required by Federal rules, statutes, regulations, and judicial decisions.

- (h) Amended and re-enacted, effective March 17, 1980, as Rule 11.29(f).
- (i) Amended and re-enacted, effective March 17, 1980, as Rule 11.29(g).
- (j) Amended and re-enacted, effective March 17, 1980, as Rule 11.29(g).

11.30 Repealed, effective December 17, 1957.

11.31 Forms.

The departments shall maintain uniform records on all types of leave on forms prescribed by the Director.

11.32 Repealed, effective December 17, 1957.

11.33 Repealed, effective December 17, 1957.