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September 22, 2009

Transmittal Sheet No. 42

Subject: State Police Commission Rules 7.4(f) and 12.12

Effective Date: July 16, 2009

At its meeting on July 16, 2009, on motion duly made and seconded, by unanimous vote of the members present, the State Police Commission voted to adopt the State Police Commission Rule 7.4 Admission to Examinations and 12.12 Extension of time to complete an Administrative Investigation. Attached are complete copies of Chapters 7 and 12 for inclusion in your Rules.

Sincerely,

Cathy J. Derbonne
Director

Attachments (2)

CJD

CHAPTER 7

EXAMINATION AND ELIGIBLE LISTS

7.1 Examinations.

- (a) The Director shall conduct competitive examinations at such times and places as deemed necessary or desirable to the needs of the State Police classified service.
- (b) Unless specifically provided otherwise in examination announcements, applications for admission to examinations shall be accepted on a continuing basis.

7.2 Public Notice of Open Competitive Examinations.

- (a) The Director shall give reasonable public notice of each open competitive examination in advance of the deadline date for filing applications.
- (b) When an examination for State Police Cadet has been announced, the Director shall conduct active recruitment for candidates through all appropriate and reasonable channels. All persons recruited shall be given a reasonable time, established by the Director, to test for the position.
- (c) Notices of open competitive examinations shall be posted on a bulletin board maintained at or near the principal office of the State Police Commission, and at all Troop Headquarters, Regions, and at the Office of Human Resource Management and all other appropriate locations at State Police Headquarters. The Director may also advertise tests in such publications and locations as are deemed appropriate and use any other means considered necessary or desirable to bring the notice of the examinations to the attention of the general public and to those qualified for admission.
- (d) Each official notice shall state the place and manner of making application, and any other information which the Director considers pertinent and appropriate.

7.3 Amended and re-enacted by the State Civil Service Commission effective March 15, 1966 as part of Rule 7.9.

7.4 Admission to Examinations.

- (a) The Director shall, subject to these Rules and the class specifications, determine the qualifications for admission to any examination.

- (b) A person whose employment is prohibited by any law or Rule shall not be admitted to any examination, except that where, the Director finds there exists reason to believe that the prohibition will cease to exist within a reasonable time, an applicant may be admitted to the examination and certified for a position, but such person shall not be appointed as long as his employment is prohibited.
- (c) Whenever age limits are specified in the qualification requirements, such age limits shall not apply to any applicant who has had at least one year of experience in the class of position for which application is made for examination.
- (d) Applicants who take an examination shall not take the same examination again until a period of at least thirty (30) days has elapsed from the date of the last examination, and no applicant shall be admitted to the same examination more than three times in any twelve-month period. The applicant's official grade shall be the one obtained on his most recent examination.
- (e) Repealed by the State Civil Service Commission effective February 10, 1976.
- (f) An applicant can take only the promotional examination for the rank immediately above the applicant's permanent rank.

7.5 Rejection of Application.

- (a) Under any of the below circumstances, the Director shall reject the application of any person for admission to examination, refuse to examine any applicant or refuse to reinstate a prior grade or pass status:
 1. Whose employment in the State Police Service would be prohibited by law or these Rules;
 2. Who lacks the minimum qualifications (and any other qualifications) prescribed as requirements for admission to examination for the class for which he/she has applied or has been examined.
 3. Who has been adjudged guilty by a court of competent jurisdiction of any felony; or who has been convicted of any misdemeanor which involves moral turpitude;
 4. Who has been dismissed from public employment (as defined by Rule 1.30.1) for cause or has been permitted to resign in lieu thereof;
 5. Who has made a false statement of any material fact or has practiced

or attempted to practice deception or fraud in his/her application for examination for public employment (as defined by Rule 1.30.1), or otherwise in securing or attempting to secure public employment and/or eligibility for appointment for himself/herself or anyone else; or

6. Whose application was filed after the closing date fixed for receipt of the application. In such case, the application shall be automatically accepted for the next available examination.

(b) Repealed, effective January 28, 1992, and incorporated as 7.5(a)9.

(c) A person whose application has been rejected under this Rule shall receive prompt written notification from the Director. Specific reason(s) for such action will be included in the notification.

7.6 Postponement and Cancellation of Tests.

In the event that an insufficient number of qualified candidates apply for a test, the Director may extend the last filing date and postpone the date of test, or cancel the administering of the test and shall, in each such case, give suitable notice thereof.

7.7 Content of Tests.

(a) Tests for promotional positions shall be practical and job-related in their nature and shall test those areas which will fairly measure the relative capacity and fitness of the candidates to discharge the duties of the positions to which they seek promotion. Promotional examinations may consist of a rating of training, education, and experience, a performance test, an objective written test, an oral examination, an assessment center, or any combination thereof.

(b) Examinations for entrance into the State Police Service shall be open, competitive, practical in nature, and be constructed to reveal the capacity of the applicants for the class of State Police Cadet. Examinations may consist of a rating of training, education and experience, a written objective test, a performance test, an oral examination, a questionnaire, a psychological evaluation, or any combination thereof, with due reference also to ability to develop in such ways as to merit advancement to positions of higher classes.

7.8 Repealed, effective January 28, 1992, and incorporated as part of Rule 7.7.

7.9 Promotional Examinations.

(a) The Director may conduct a competitive promotional examination for any vacant or prospectively vacant position, provided

1. The Director shall issue an appropriate announcement in advance of such examination and it shall be the duty of the Appointing Authority to make every effort to see that employees are informed of the announcement;
 2.
 - a. Admission to such examination shall be restricted to permanent employees who meet the qualifications stated in the class specifications for the position for which the promotional examination is announced. An employee currently rated unacceptable (i.e., "needs improvement" or "unsatisfactory") shall not be admitted to any competitive test.
 - b. Repealed by the State Civil Service Commission effective March 15, 1973.
 - c. Whenever minimum qualification requirements are changed and incumbents of positions in affected classes do not meet the new requirements, such incumbents will be allowed to remain in the class of position occupied, unless a specific license or certification is required by law, and to continue gaining qualifying experience for the higher levels that are in the normal career progression for that class.
 - d. Repealed, effective January 28, 1992, and partially incorporated in 7.9(a)2c.
 3. Repealed, effective January 28, 1992, and incorporated in Rule 7.7(a).
 4. The eligible list established from such examination shall contain the names of all candidates who pass the examination, ranked according to their final ratings.
 5. In assigning a rating based on training and experience, credit shall not be allowed for periods of leave of thirty days or more absence without pay granted under the provisions of Rule 11.27(a) and (b), unless the work performed during the period of absence is creditable under the examination specifications.
- (b) Non-competitive promotions may be made to non-competitive classes only in accordance with the provisions of Rule 7.20.
 - (c) The Director may indicate the principal or normal line of promotion from and to each class of position.
 - (d) Upon receipt by the Director of a request to fill a promotional vacancy, the

Director shall admit to examination and consider for certification all qualified applicants whose applications are then on file with the Director for the vacancy being filled; provided that the Director may restrict the number of times that an applicant may be admitted to the same examination within a twelve month period.

(e) Repealed, effective January 28, 1992.

7.10 Amended and reenacted by the State Civil Service Commission effective March 15, 1966 as a part of Rule 7.9.

7.11 Preferential Eligibility Credits.

(a) Repealed by the State Civil Service Commission effective January 1, 1975.

(b) Subject to the provisions of Subsection (e) and (g) of this Rule, in original appointments, the appointing authority shall give some consideration and preference to:

1. Persons honorably discharged, or discharged under honorable conditions, from the Armed Forces of the United States who served:

(a) In the wartime period July 1, 1958 through May 7, 1975; except the period July 1, 1958 through August 4, 1964 shall apply only to those who served within the area known as the Vietnam Theater; or

(b) Prior 7.11(b)2. repealed, effective January 28, 1992.

(c) Prior 7.11(b)3. repealed, effective January 28, 1992.

(d) Prior 7.11(b)4. repealed, effective January 28, 1992.

(e) Prior 7.11(b)5. repealed, effective January 28, 1992.

(f) In a peacetime campaign or expedition for which campaign badges are authorized.

2. Each honorably discharged veteran who served either in peace or in war and who has one or more disabilities recognized as service-connected by the Veterans Administration;

3. The spouse of each veteran whose physical condition precludes his or her appointment to a position as a State Police Cadet;

4. The unremarried widow of each deceased veteran who served in a war period as defined in Subsection (b) 1. (a) of this Rule, or in a

peacetime campaign or expedition;

5. The unremarried widowed parent of any person who dies in active wartime or peacetime service or who suffered total and permanent disability in active wartime or peacetime service;
 6. The divorced or separated parents of any person who died in wartime or peacetime service or who became totally and permanently disabled in wartime or peacetime service.
- (c) Prior 7.11(d) 1. and 2. and (e) repealed, by the State Police Commission, effective July 21, 1997.
- (d) Prior 7.11(f) repealed by the State Civil Service Commission, effective January 7, 1975.
- (e) Except for Subsection (b) 2. of this Rule, service that is for the purpose of training only shall not be considered as qualifying service.

7.12 Proof of Eligibility for Military Preference.

Proof of eligibility for military preference shall be furnished the Director by the person claiming the preference on the form prescribed by the Director for this purpose, together with such evidence as may be called for on the form.

7.13 Results of Tests.

The rating of each test shall be completed as soon as possible after the test is given, and the Director shall have prepared an eligible list for the class from the results with the names of those persons who have met the eligibility placed in grade order from the highest to the lowest. Persons competing in any test shall be given written notice of their final earned rating, or their failure to attain a place on the list.

7.14 Repealed, effective January 28, 1992.

7.15 Repealed by the State Civil Service Commission effective April 20, 1981.

7.16 Regrading of Tests.

Upon proper application to the Director, a competitor in an examination shall be entitled to have the test paper and rating reviewed, unless such is prohibited by agreement between the Director and a professional testing service. Any rating errors disclosed shall be corrected but such changes shall not per se invalidate any certification or appointment made from an eligible list.

7.17 Establishment of Eligible Lists.

- (a) The Director shall, subject to these Rules, establish eligible lists from the results of State Police Merit System examinations. Such lists shall contain the names of all candidates who pass the related examinations.
- (b) Eligibles shall be ranked on such lists in the relative order of the rating attained, including preference points, if any.

7.18 Amended and reenacted by the State Civil Service Commission effective December 17, 1957 as parts of Rules 7.1 and 7.17.

7.19 Amended and reenacted by the State Civil Service Commission effective March 15, 1966 as part of Rule 7.9.

7.20 Noncompetitive Classes.

- (a) Repealed, effective January 28, 1992.
- (b) Repealed by the State Civil Service Commission effective January 1, 1975.
- (c) Repealed, effective January 28, 1992.
- (d) Repealed, effective January 28, 1992.
- (e) When testing for a class is impractical because of situations that require considerable education in a formal body of knowledge and professional testing prior to legal licensing and practice of a profession, the Director may, with approval of the Commission, dispense with competitive examining procedures for those classes.

7.21 Repealed by the State Civil Service Commission effective January 14, 1983, and incorporated into Chapter 17.

7.22 Consolidation of Lists.

When an eligible list is established for a class of position for which an eligible list is already in existence, the existing list may be canceled or merged with the new list, at the discretion of the Director. If the name of any individual appears on both the old and the new list, and the lists are merged, the candidate's standing on the new list shall be determined by the score on the more recent examination.

7.23 Amendment of Lists.

Any eligible list may be amended by the addition of names of other successful applicants who are admitted to subsequent examinations, and their scores shall be

merged in rank order with the scores of those on the original list.

7.24 Removal of Name from Eligible List.

- (a) The Director may remove from any list the name of any person who is not qualified, is not available or is not suitable for appointment to the position for which the list was established.
- (b) The Director may remove, at the request of the Appointing Authority, the names of persons who have been considered three times for appointment to State Police Cadet and who have not been offered employment.
- (c) At the expiration of one year from entry on any eligible list, except preferred re-employment lists, an applicant's name may be removed from the list for State Police Cadet only. Such applicant may prevent the removal of his/her name by reestablishing his/her eligibility in accordance with the provisions of these Rules and the regulations on admission to examinations.
- (d) The Director may remove the name of any person who is temporarily not suitable for appointment to the position for which the list was established.

7.25 Restoration to Eligible Lists After Removal.

- (a) The Director may restore the name of a person removed from an eligible list upon receipt of written application for restoration and a showing that the causes for removal from the eligible list no longer exist or that an error was made in making the removal from the list.
- (b) The Director may restore the name of a former employee who has acquired permanent or probationary status to the register of eligibles from which he/she was appointed if that employee makes application for such restoration within one year from the last date the employee worked in the position, provided the register is still in use.

7.26 Duration of Eligible Lists.

- (a) Each eligible list shall remain in effect until canceled.
- (b) The Director may cancel an eligible list, except a department preferred reemployment list, at such time that the list becomes unsatisfactory or undesirable because of the high percentage of unavailable eligibles on the list, changes in qualification standards, development of new examining procedures, or for such other reasons as may be in the interest of good personnel administration.

7.27 Repealed, effective January 28, 1992, and incorporated in Rule 7.26 (b).

7.28 Repealed and re-enacted by the State Civil Service Commission effective January 1, 1963 as Rule 14.1.1(d).

T/S- 42 – Rule 7.4(f)

07/16/2009

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- (b) When an examination for State Police Cadet has been announced, the Director shall conduct active recruitment for candidates through all appropriate and reasonable channels. All persons recruited shall be given a reasonable time, established by the Director, to test for the position.
- (c) Notices of open competitive examinations shall be posted on a bulletin board maintained at or near the State Police Commission, and at all Troop Headquarters and at the Office of Human Resource Management and at the Office of State Police Headquarters. The Director shall advertise tests in such publications and locations as are appropriate and use any other means considered necessary or desirable to bring the notice of the examinations to the attention of the general public and to those qualified for admission.
- (d) Each official notice shall state the place and manner of making application, and any other information which the Director considers pertinent and appropriate.

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Rule

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- (c) Whenever age limits are specified in the qualification requirements, such age limits shall not apply to any applicant who has had at least one year of experience in the class of position for which application is made for examination.
- (d) Applicants who take an examination shall not take the same examination again until a period of at least thirty (30) days has elapsed from the date of the last examination, and no applicant shall be admitted to the same examination more than three times in any twelve-month period. The applicant's official grade shall be the one obtained on his most recent examination.
- (e) Repealed by the State Civil Service Commission effective February 10, 1976.

7.5 Rejection of Application.

- (a) Under any of the below circumstances, the Director shall reject the application of any person for admission to examination, refuse to examine any applicant or refuse to reinstate a prior grade or pass status:
 - 1. Whose employment in the State Police Service would be prohibited by law or these Rules;
 - 2. Who lacks the minimum qualifications (and any other qualifications) prescribed as requirements for admission to examination for the class for which he/she has applied or has been examined.
 - 3. Who has been adjudged guilty by a court of competent jurisdiction of any felony; or who has been convicted of any misdemeanor which involves moral turpitude;

4. Who has been dismissed from public employment (as defined by Rule 1.30.1) for cause or has been permitted to resign in lieu thereof;
 5. Who has made a false statement of any material fact or has practiced or attempted to practice deception or fraud in his/her application for examination for public employment (as defined by Rule 1.30.1), or otherwise in securing or attempting to secure public employment and/or eligibility for appointment for himself/herself or anyone else; or
 6. Whose application was filed after the closing date fixed for receipt of the application. In such case, the application shall be automatically accepted for the next available examination.
- (b) Repealed, effective January 28, 1992, and incorporated as 7.5(a)9.
- (c) A person whose application has been rejected under this Rule shall receive prompt written notification from the Director. Specific reason(s) for such action will be included in the notification.

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positions of higher classes.

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b. Repealed by the State Civil Service Commission effective March 15, 1973.

c. Whenever minimum qualification requirements are changed and incumbents of positions in affected classes do not meet the new requirements, such incumbents will be allowed to remain in the class of position occupied, unless a specific license or certification is required by law, and to continue gaining qualifying experience for the higher levels that are in the normal career progression for that class.

d. Repealed, effective January 28, 1992, and partially incorporated in 7.9(a)2c.

3. Repealed, effective January 28, 1992, and incorporated in Rule 7.7(a).

4. The eligible list established from such examination shall contain the names of all candidates who pass the examination, ranked according to their final ratings.

5. In assigning a rating based on training and experience, credit shall not be allowed for periods of leave of thirty days or more absence

without pay granted under the provisions of Rule 11.27(a) and (b), unless the work performed during the period of absence is creditable under the examination specifications.

- (b) Non-competitive promotions may be made to non-competitive classes only in accordance with the provisions of Rule 7.20.
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- (b) Subject to the provisions of Subsection (e) and (g) of this Rule, in original appointments, the appointing authority shall give some consideration and preference to:
 - 1. Persons honorably discharged, or discharged under honorable conditions, from the Armed Forces of the United States who served:
 - (a) In the wartime period July 1, 1958 through May 7, 1975; except the period July 1, 1958 through August 4, 1964 shall apply only to those who served within the area known as the Vietnam Theater; or
 - (b) Prior 7.11(b)2. repealed, effective January 28, 1992.
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 - (d) Prior 7.11(b)4. repealed, effective January 28, 1992.

- (e) Prior 7.11(b)5. repealed, effective January 28, 1992.
 - (f) In a peacetime campaign or expedition for which campaign badges are authorized.
2. Each honorably discharged veteran who served either in peace or in war and who has one or more disabilities recognized as service-connected by the Veterans Administration;
 3. The spouse of each veteran whose physical condition precludes his or her appointment to a position as a State Police Cadet;
 4. The unremarried widow of each deceased veteran who served in a war period as defined in Subsection (b) 1. (a) of this Rule, or in a peacetime campaign or expedition;
 5. The unremarried widowed parent of any person who dies in active wartime or peacetime service or who suffered total and permanent disability in active wartime or peacetime service;
 6. The divorced or separated parents of any person who died in wartime or peacetime service or who became totally and permanently disabled in wartime or peacetime service.
- (c) Prior 7.11(d) 1. and 2. and (e) repealed, by the State Police Commission, effective July 21, 1997.
 - (d) Prior 7.11(f) repealed by the State Civil Service Commission, effective January 7, 1975.
 - (e) Except for Subsection (b) 2. of this Rule, service that is for the purpose of training only shall not be considered as qualifying service.

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place on the list.

7.14 Repealed, effective January 28, 1992.

7.15 Repealed by the State Civil Service Commission effective April 20, 1981.

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7.20 Noncompetitive Classes.

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- (b) Repealed by the State Civil Service Commission effective January 1, 1975.
- (c) Repealed, effective January 28, 1992.
- (d) Repealed, effective January 28, 1992.

- (e) When testing for a class is impractical because of situations that require considerable education in a formal body of knowledge and professional testing prior to legal licensing and practice of a profession, the Director may, with approval of the Commission, dispense with competitive examining procedures for those classes.

7.21 Repealed by the State Civil Service Commission effective January 14, 1983, and incorporated into Chapter 17.

7.22 Consolidation of Lists.

When an eligible list is established for a class of position for which an eligible list is already in existence, the existing list may be canceled or merged with the new list, at the discretion of the Director. If the name of any individual appears on both the old and the new list, and the lists are merged, the candidate's standing on the new list shall be determined by the score on the more recent examination.

7.23 Amendment of Lists.

Any eligible list may be amended by the addition of names of other successful applicants who are admitted to subsequent examinations, and their scores shall be merged in rank order with the scores of those on the original list.

7.24 Removal of Name from Eligible List.

- (a) The Director may permanently remove from any list the name of any person who is not qualified, is not available or is not suitable for appointment to the position for which the list was established.
- (b) The Director may remove, at the request of the Appointing Authority, the names of persons who have been considered three times for appointment to State Police Cadet and who have not been offered employment.
- (c) At the expiration of one year from entry on any eligible list, except preferred re-employment lists, an applicant's name may be removed from the list for State Police Cadet only. Such applicant may prevent the removal of his/her name by reestablishing his/her eligibility in accordance with the provisions of these Rules and the regulations on admission to examinations.
- (d) The Director may remove the name of any person who is temporarily not suitable for appointment to the position for which the list was established.

7.25 Restoration to Eligible Lists After Removal.

- (a) The Director may restore the name of a person removed from an eligible list upon receipt of written application for restoration and a showing that the causes for removal from the eligible list no longer exist or that an error was made in making the removal from the list.
- (b) The Director may restore the name of a former employee who has acquired permanent or probationary status to the register of eligibles from which he/she was appointed if that employee makes application for such restoration within one year from the last date the employee worked in the position, provided the register is still in use.

7.26 Duration of Eligible Lists.

- (a) Each eligible list shall remain in effect until canceled.
- (b) The Director may cancel an eligible list, except a department preferred reemployment list, at such time that the list becomes unsatisfactory or undesirable because of the high percentage of unavailable eligibles on the list, changes in qualification standards, development of new examining procedures, or for such other reasons as may be in the interest of good personnel administration.

7.27 Repealed, effective January 28, 1992, and incorporated in Rule 7.26 (b).

7.28 Repealed and re-enacted by the State Civil Service Commission effective January 1, 1963 as Rule 14.1.1(d).

Chapter 12

Disciplinary Actions, Removals and Resignations

12.1 Appointing Authority.

Disciplinary and other actions authorized by this chapter may be taken only by the appointing authority or his or her designee.

12.2 Cause; Disciplinary Actions.

- (a) A permanent employee may only be disciplined for cause.
- (b) Disciplinary actions include only the following: dismissals, suspensions without pay, reductions in pay, involuntary demotions and written reprimands.

12.3 Restrictions On Suspensions Without Pay and Reductions in Pay.

- (a) Except as provided by Rule 12.5 or as ordered by the Commission or agreed to under Chapter 13 or Chapter 16, a suspension without pay may not exceed 720 working hours.
- (b) No disciplinary reduction in pay may bring an employee's pay below the hiring rate of the employee's range or below minimum wage.

12.4 Administrative Leave Pending Investigation.

- (a) Where, in the judgment of the appointing authority, there is reason to suspect that an employee has engaged in conduct which would warrant disciplinary action, but the appointing authority does not then possess sufficient facts to support a disciplinary action, or an employee's dismissal or removal is proposed in accord with Rule 12.7, and the employee's continued presence on the job or performance of his duties reasonably poses a significant hazard or danger to the general health or safety or the efficiency of the public service, the employee may, either verbally or in writing, be placed on Administrative Leave with pay. Such leave shall not reduce the employee's annual or compensatory leave.
- (b) When an employee is placed on Administrative Leave under the provisions of this rule, if feasible, the employee shall first be informed of the intended action and the reasons therefor and the employee shall be given an opportunity to respond verbally at that time. If such is not feasible, or will reasonably significantly endanger the general health or safety or the efficiency of the public service, such shall not be required and, in that case, the employee shall merely be informed of the action.

This notice and opportunity to verbally respond shall not substitute for the requirements of Rule 12.7.

- (c) Within fifteen (15) calendar days after the action provided for by this rule, the appointing authority shall provide the employee with such facts which support the action as are then available and which will not violate any confidence between the appointing authority and the investigating, arresting and/or prosecuting authority.
- (d) An action taken under this rule shall not exceed thirty (30) calendar days without the prior approval of the Director. Upon sufficient reasons provided to her by the appointing authority, the Director may allow an extension of the Administrative Leave for an additional thirty (30) calendar days.
- (e) Upon completion of the investigation, the Director and the employee shall be notified in writing of the outcome of the investigation. Should the appointing authority find that cause does not exist for further action against the employee, the employee shall immediately be returned to duty. Should, however, the employee then be disciplined, and if not previously given, the employee shall then be given all notices required by Rule 12.7 and/or Rule 12.8.
- (f) Notwithstanding any other provision of these Rules, an Administrative Leave Pending Investigation, Dismissal or Removal is not a disciplinary action and may not be appealed to the Commission, except on the basis of discrimination or a violation of the Article or these Rules.
- (g) The appointing authority may, within his discretion, require an employee placed on Administrative Leave under this rule to immediately surrender his commission card, badge, weapon(s) and all department issued equipment.

12.5 Suspension or Administrative Leave Pending Criminal Proceedings.

- (a) Upon the arrest or indictment of, or the issuance of a criminal summons to an employee, at the request of the appointing authority, the Commission may allow the suspension of the employee during the pendency of the criminal proceedings. This suspension may be for such duration and under such conditions as the Commission may allow.
- (b) In such cases, the request of the appointing authority shall contain all the details required by Rule 12.8 as are then available to the appointing authority and which will not violate any confidence between the appointing authority and the investigating, arresting and/or

prosecuting authority. Such request shall be furnished to the employee at or prior to the time it is furnished to the Commission.

- (c) Prior to approving a suspension under this rule, the Commission shall allow the employee or his attorney a reasonable opportunity to appear before the Commission and respond.
- (d) At the time it considers such request, the Commission may decline the request for the suspension and, instead, place the employee on Administrative Leave with pay during the pendency of the criminal proceedings. Should the Commission do so, such action shall not be appealable to the Commission, except on the basis of discrimination or a violation of the Article or these Rules.

12.6 Non-disciplinary Removals.

- (a) An employee may be removed under the following conditions:
 - 1. When he or she holds more than one position in the state service and the multiple employment causes an employing agency to be liable for overtime payments under the Fair Labor Standards Act and, after having been provided an opportunity to do so, the employee has refused to resign from one of the positions; or
 - 2. When the reason for the dismissal is not the employee's fault or conduct, or when the employee fails to obtain or loses, as a result of conduct that was not work related, a license, commission, certificate or other accreditation that is legally required for his job.
- (b) An employee removed under this rule shall be furnished with the same notice required for dismissals under Rule 12.8, and he or she shall have the same right to appeal such as if it were a disciplinary dismissal.
- (c) When an employee is removed under this rule, the appointing authority shall designate the dismissal as non-disciplinary on all forms used to report such dismissal, and the adverse consequence of Rules 6.5(c), 7.5(a)4, 8.9(c), 7.24(a), 8.18(d), 11.18(b), and 17.24 shall not apply.

12.7 Pre-dismissal, Removal Or Discipline Procedure.

- (a) A permanent employee may not be dismissed or removed or subjected to any discipline, other than a letter of reprimand until he has been given written notice of the proposed action and the reasons therefor, a description of the evidence supporting the proposed action and a reasonable opportunity to respond thereto. T/S-22 04/20/98

- (b) In the case of a suspension pending the outcome of criminal proceedings, the notice provided to the employee under the provisions of Rule 12.5(b) shall satisfy the requirements of paragraph (a) of this rule.

12.8 Written Notice.

- (a) Except as provided by Rule 12.5, a permanent employee who is disciplined shall be given prior written notice of the action which:
 1. States the action which is being taken and the effective date and time thereof;
 2. Contains such information as will fully inform the employee of the conduct on which the action is based and which will enable him or her to prepare a defense, including, where pertinent, the date, time and place of such conduct and the names of persons directly involved in or affected by such conduct (unless their identities are protected by law, in which case, identification shall be made as permitted by law);
 3. Contains the following notification: "You have the right to appeal this action to the State Police Commission. The time limits and procedure for appealing are contained in Chapter 13 of the State Police Commission Rules."; and
 4. Advises the employee that a copy of Chapter 13 of the State Police Commission Rules can be obtained from the State Police Commission and provides the Commission's current mailing address and telephone and fax numbers.

- (b) Written notice is considered given:

1. Upon delivery to the employee or a person of suitable age and discretion who resides with the employee; or
2. On the 7th calendar day after it is mailed to the employee, with correct postage, at the most recent address furnished by the employee in writing to the Human Resources Office.

12.9 Letters Of Counseling and/or Warning; Responses.

- (a) A letter of counseling or warning is not a disciplinary action. Such letters may be maintained in a supervisory or investigatory file, however, they shall not be included in any record which is accessible to the public.

T/S-21

07/21/97

Such a letter is not appealable to the Commission except on the basis of discrimination or a violation of the Article or these Rules.

- (b) The employee may submit a written response to any letter of counseling or warning issued to him or her, and such response shall be attached to each copy of the letter of counseling or warning that is maintained by the employing agency.

12.10 Removal Of Sick Or Disabled Employees.

- (a) Upon exhaustion of their sick leave and upon their request, an employee absent from duty because of a physical and/or mental disability or condition which prevents performance of the usual duties shall thereafter be placed on any type of paid leave then available to them and, upon the exhaustion of such paid leave, the employee shall then be placed on unpaid leave.

The period of leave provided for by this rule shall be until the exhaustion of the employee's sick leave or the leave provided for by the Family Medical Leave Act (FMLA) or one(1) year, whichever is longer.

- (b) After such employee has been absent from duty because of such physical and/or mental disability or condition for the period provided for by Rule 12.10(a), and the employee has exhausted all of his or her sick leave or leave available under FMLA and the employee's job must be performed without further interruption, the appointing authority, may, for these reasons, remove such employee. Such removal shall not disqualify the former employee from non-competitive reemployment, as provided for by Rule 8.18.
- (c) Notice of the removal of an employee under the provisions of subsection (b) shall be given pursuant to the provisions of Rule 12.8.
- (d) An employee removed under this rule shall have a right of appeal only based upon discrimination and/or the violation of the Article or these Rules.

12.11 Resignations.

- (a) Upon the termination of the services of a permanent or probationary employee by voluntary resignation, the appointing authority shall request that the employee submit a letter of resignation or complete other appropriate agency "exit" forms. Where it is not possible to secure the letter or form, the appointing authority shall prepare and maintain a written explanation of the reason(s) for the resignation, if known, and the reason that a letter of resignation or exit form was not obtained.
- (b) The resignation of an employee, submitted orally or in writing, shall become an accomplished fact upon:

1. Its acceptance by the appointing authority or his or her designee, notwithstanding that it may include a prospective effective date; or
 2. The occurrence of the effective date and time specified by him in his statement of intention to resign.
- (c) When signed by the appointing authority or his or her designee, a personnel status change form which reports to the Director the resignation of an employee shall constitute one type of acceptance of the resignation.
- (d) An employee may not rescind or withdraw his resignation subsequent to:
1. Its acceptance by the appointing authority unless the appointing authority agrees thereto;
 2. The effective date and time specified in the resignation; or
 3. The terminal date and hour specified in the personnel status change form mentioned in sub-section (c) hereof.
- (e) By mutual agreement between an employee and the appointing authority, an accepted resignation may be withdrawn and rescinded at any time prior to the effective date and time specified by the employee in the resignation.
- (f) When an employee resigns after receiving the notice required under Rule 12.7 that his dismissal has been proposed, the SF-1 form reporting the resignation shall so indicate. At the time the SF-1 form reporting the resignation is mailed or delivered to the Director, a copy thereof shall be mailed to the employee at the last known address furnished by the employee to the Human Resources Office.

12.12 Extension Of Time To Complete An Administrative Investigation

In order to request an extension of time within which to complete an administrative investigation in accordance with R.S. 40:2531(B)(8), the appointing authority shall file a written request for an extension of time, with the Louisiana State Police Commission through its Chairman, or the executive Director. The Chairman, or the Executive Director, shall set the matter for a hearing before the Commission or the Executive Director to be held within 10 business days of receipt of the request. The Chairman or the Executive Director shall forward a copy of the written request to the employee, and provide notice of the hearing to the appointing authority and the employee. Such notice may be made via facsimile, email, U.S. mail or hand delivery. The employee who is under investigation shall have the right to attend the hearing and present evidence and arguments against the extension requested. The Commission or the Executive Director, upon finding that good cause exists for the granting of the requested extension of

time not to exceed 60 days, shall rule on the request for an extension of time to complete the investigation within 2 business days of the hearing, and immediately provide written notice of the decision to the appointing authority and the employee.

T/S-21
T/S-42 - Rule 12.12

07/21/97
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Chapter 12

Disciplinary Actions, Removals and Resignations

12.1 Appointing Authority.

Disciplinary and other actions authorized by this chapter may be taken only by the appointing authority or his or her designee.

12.2 Cause; Disciplinary Actions.

- (a) A permanent employee may only be disciplined for cause.
- (b) Disciplinary actions include only the following: dismissals, suspensions without pay, reductions in pay, involuntary demotions and written reprimands.

12.3 Restrictions On Suspensions Without Pay and Reductions in Pay.

- (a) Except as provided in Rule 12.7, a suspension without pay ordered by the Commission or agreed to under Chapter 72 may not exceed 72 days.
- (b) No disciplinary reduction in an employee's pay below the hiring rate of the employee shall be made below the minimum wage.

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12.4 Administrative Leave Pending Investigation.

- (a) Where, in the judgment of the appointing authority, there is reason to suspect that an employee has engaged in conduct which would warrant disciplinary action, but the appointing authority does not then possess sufficient facts to support a disciplinary action, or an employee's dismissal or removal is proposed in accord with Rule 12.7, and the employee's continued presence on the job or performance of his duties reasonably poses a significant hazard or danger to the general health or safety or the efficiency of the public service, the employee may, either verbally or in writing, be placed on Administrative Leave with pay. Such leave shall not reduce the employee's annual or compensatory leave.
- (b) When an employee is placed on Administrative Leave under the provisions of this rule, if feasible, the employee shall first be informed of the intended action and the reasons therefor and the employee shall be given an opportunity to respond verbally at that time. If such is not feasible, or will reasonably significantly endanger the general health or safety or the efficiency of the public service, such shall not be required and, in that case, the employee shall merely be informed of the action.

This notice and opportunity to verbally respond shall not substitute for the requirements of Rule 12.7.

- (c) Within fifteen (15) calendar days after the action provided for by this rule, the appointing authority shall provide the employee with such facts which support the action as are then available and which will not violate any confidence between the appointing authority and the investigating, arresting and/or prosecuting authority.
- (d) An action taken under this rule shall not exceed thirty (30) calendar days without the prior approval of the Director. Upon sufficient reasons provided to her by the appointing authority, the Director may allow an extension of the Administrative Leave for an additional thirty (30) calendar days.
- (e) Upon completion of the investigation, the Director and the employee shall be notified in writing of the outcome of the investigation. Should the appointing authority find that cause does not exist for further action against the employee, the employee shall immediately be returned to duty. Should, however, the employee then be disciplined, and if not previously given, the employee shall then be given all notices required by Rule 12.7 and/or Rule 12.8.
- (f) Notwithstanding any other provision of these Rules, an Administrative Leave Pending Investigation, Dismissal or Removal is not a disciplinary action and may not be appealed to the Commission, except on the basis of discrimination or a violation of the Article or these Rules.
- (g) The appointing authority may, within his discretion, require an employee placed on Administrative Leave under this rule to immediately surrender his commission card, badge, weapon(s) and all department issued equipment.

12.5 Suspension or Administrative Leave Pending Criminal Proceedings.

- (a) Upon the arrest or indictment of, or the issuance of a criminal summons to an employee, at the request of the appointing authority, the Commission may allow the suspension of the employee during the pendency of the criminal proceedings. This suspension may be for such duration and under such conditions as the Commission may allow.
- (b) In such cases, the request of the appointing authority shall contain all the details required by Rule 12.8 as are then available to the appointing authority and which will not violate any confidence between the appointing authority and the investigating, arresting and/or prosecuting authority. Such request shall be furnished to the employee at or prior to the time it is furnished to the Commission.

- (c) Prior to approving a suspension under this rule, the Commission shall allow the employee or his attorney a reasonable opportunity to appear before the Commission and respond.
- (d) At the time it considers such request, the Commission may decline the request for the suspension and, instead, place the employee on Administrative Leave with pay during the pendency of the criminal proceedings. Should the Commission do so, such action shall not be appealable to the Commission, except on the basis of discrimination or a violation of the Article or these Rules.

12.6 Non-disciplinary Removals.

- (a) An employee may be removed under the following conditions:
 - 1. When he or she holds more than one position in the state service and the multiple employment causes an employing agency to be liable for overtime payments under the Fair Labor Standards Act and, after having been provided an opportunity to do so, the employee has refused to resign from one of the positions; or
 - 2. When the reason for the dismissal is not the employee's fault or conduct, or when the employee fails to obtain or loses, as a result of conduct that was not work related, a license, commission, certificate or other accreditation that is legally required for his job.
- (b) An employee removed under this rule shall be furnished with the same notice required for dismissals under Rule 12.8, and he or she shall have the same right to appeal such as if it were a disciplinary dismissal.
- (c) When an employee is removed under this rule, the appointing authority shall designate the dismissal as non-disciplinary on all forms used to report such dismissal, and the adverse consequence of Rules 6.5(c), 7.5(a)4, 8.9(c), 7.24(a), 8.18(d), 11.18(b), and 17.24 shall not apply.

12.7 Pre-dismissal, Removal Or Discipline Procedure.

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- (b) In the case of a suspension pending the outcome of criminal proceedings, the notice provided to the employee under the provisions of Rule 12.5(b) shall satisfy the requirements of paragraph (a) of this rule.

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1. States the action which is being taken and the effective date and time thereof;
 2. Contains such information as will fully inform the employee of the conduct on which the action is based and which will enable him or her to prepare a defense, including, where pertinent, the date, time and place of such conduct and the names of persons directly involved in or affected by such conduct (unless their identities are protected by law, in which case, identification shall be made as permitted by law);
 3. Contains the following notification: "You have the right to appeal this action to the State Police Commission. The time limits and procedure for appealing are contained in Chapter 13 of the State Police Commission Rules."; and
 4. Advises the employee that a copy of Chapter 13 of the State Police Commission Rules can be obtained from the State Police Commission and provides the Commission's current mailing address and telephone and fax numbers.
- (b) Written notice is considered given:
1. Upon delivery to the employee or a person of suitable age and discretion who resides with the employee; or
 2. On the 7th calendar day after it is mailed to the employee, with correct postage, at the most recent address furnished by the employee in writing to the Human Resources Office.

12.9 Letters Of Counseling and/or Warning; Responses.

- (a) A letter of counseling or warning is not a disciplinary action. Such letters may be maintained in a supervisory or investigatory file, however, they shall not be included in any record which is accessible to the public. Such a letter is not appealable to the Commission except on the basis of discrimination or a violation of the Article or these Rules.
- (b) The employee may submit a written response to any letter of counseling or warning issued to him or her, and such response shall be attached to each copy of the letter of counseling or warning that is maintained by the employing agency.

12.10 Removal Of Sick Or Disabled Employees.

- (a) Upon exhaustion of their sick leave and upon their request, an employee absent from duty because of a physical and/or mental disability or condition which prevents performance of the usual duties shall thereafter be placed on any type of paid leave then available to them and, upon the exhaustion of such paid leave, the employee shall then be placed on unpaid leave.

The period of leave provided for by this rule shall be until the exhaustion of the employee's sick leave or the leave provided for by the Family Medical Leave Act (FMLA) or one(1) year, whichever is longer.

- (b) After such employee has been absent from duty because of such physical and/or mental disability or condition for the period provided for by Rule 12.10(a), and the employee has exhausted all of his or her sick leave or leave available under FMLA and the employee's job must be performed without further interruption, the appointing authority, may, for these reasons, remove such employee. Such removal shall not disqualify the former employee from non-competitive reemployment, as provided for by Rule 8.18.
- (c) Notice of the removal of an employee under the provisions of subsection (b) shall be given pursuant to the provisions of Rule 12.8.
- (d) An employee removed under this rule shall have a right of appeal only based upon discrimination and/or the violation of the Article or these Rules.

12.11 Resignations.

- (a) Upon the termination of the services of a permanent or probationary employee by voluntary resignation, the appointing authority shall request that the employee submit a letter of resignation or complete other appropriate agency "exit" forms. Where it is not possible to secure the letter or form, the appointing authority shall prepare and maintain a written explanation of the reason(s) for the resignation, if known, and the reason that a letter of resignation or exit form was not obtained.
- (b) The resignation of an employee, submitted orally or in writing, shall become an accomplished fact upon:
 1. Its acceptance by the appointing authority or his or her designee, notwithstanding that it may include a prospective effective date; or
 2. The occurrence of the effective date and time specified by him in his statement of intention to resign.

- (c) When signed by the appointing authority or his or her designee, a personnel status change form which reports to the Director the resignation of an employee shall constitute one type of acceptance of the resignation.
- (d) An employee may not rescind or withdraw his resignation subsequent to:
 - 1. Its acceptance by the appointing authority unless the appointing authority agrees thereto;
 - 2. The effective date and time specified in the resignation; or
 - 3. The terminal date and hour specified in the personnel status change form mentioned in sub-section (c) hereof.
- (e) By mutual agreement between an employee and the appointing authority, an accepted resignation may be withdrawn and rescinded at any time prior to the effective date and time specified by the employee in the resignation.
- (f) When an employee resigns after receiving the notice required under Rule 12.7 that his dismissal has been proposed, the SF-1 form reporting the resignation shall so indicate. At the time the SF-1 form reporting the resignation is mailed or delivered to the Director, a copy thereof shall be mailed to the employee at the last known address furnished by the employee to the Human Resources Office.