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General Circular No. 177

Date: August 26, 2015

Subject: Announcement of Public Hearing Regarding Revision of State Police Commission Rule Chapter 2: Organization, Rules, Procedures and Powers of the State Police Commission.

Pursuant to the provisions of State Police Commission Rule 2.10 (a), the State Police Commission will hold a public hearing at 9:00 a.m. on September 10, 2015, to consider the revision of State Police Commission Rule Chapter 2: Organization, Rules, Procedures and Powers of the State Police Commission.

CHAPTER 2

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

2.1 Election of the Chairman and Vice-Chairman

(a) The members of the Commission shall meet and organize by electing one of its members Chairman and one of its members Vice-Chairman. In case of a vacancy in either office, the Commission shall elect a replacement from among its members.

(b) The Chairman and Vice-Chairman shall be elected at the first meeting held following December 31 of each year.

2.2 Commission Meeting Dates

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

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2.3 Rules of Order

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

2.4 Meetings Open to the Public

- (a) All meetings and hearings of the Commission shall be open to the public except executive meetings.
- (b) The Commission may hold an executive meeting upon affirmative vote of two-thirds of its constituent members present, taken at an open meeting for which notice has been given pursuant to Rule 2.5. No final or binding action shall be taken during an executive meeting except as provided herein.
- (c) The Commission may hold an executive meeting for one or more of the following reasons:
 - (1) Discussion of the character, professional competence, or physical or mental health of a person, provided that such person may require that such discussion be held at an open meeting.
 - (2) Strategy sessions or negotiations with respect to collective bargaining, prospective litigation after formal written demand, or litigation when an open meeting would have a detrimental effect on the bargaining or litigation position of the Commission.
 - (3) Discussion regarding the report, development, or course of action regarding security personnel, plans, or devices.
 - (4) Investigative proceedings regarding allegations of misconduct.
 - (5) Cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances or other matters of similar magnitude.
 - (6) Discussion of any matter deemed confidential by these Rules, or State or Federal Law or Regulation.

- (7) Consideration and discussion of the merits of any appeal filed pursuant to these Rules. Final and binding action may be taken during an executive meeting held to discuss and decide such an appeal.

2.5 Notice of Meetings

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

2.6 Quorum and Voting

- (a) Four (4) members of the Commission shall constitute a quorum for the transaction of business.
- (b) The concurrence of a majority of the members present shall constitute a ruling upon an item of business then before the Commission.
- (c) In the event of a tie vote the Commission may, in its discretion,
 1. Refer a transcript of the record of the matter under consideration to one or more absent members, who shall then vote; or
 2. Continue the matter for consideration at a later meeting.

- (d) Temporary absence during the consideration of an item of business shall not disqualify a member from voting on said item.

2.7 Secretary to the Commission

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

2.8 Minutes of the Proceedings

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

2.9 Powers of the Commission

The Commission is empowered:

- (a) To represent the public interest in the improvement of personnel administration in the ~~departments~~ Department of Public Safety & Corrections, Office of State Police, whose personnel practices are governed by the Article and the State Police Commission Rules.
- (b) To appoint, review, and remove and otherwise discipline the Director.
- (c) To conduct investigations whenever it has reason to believe the provisions of the State Police ~~Commission Service~~ Article or Rules are being violated or have been violated by any person or Department of Public Safety & Corrections, Office of State Police; and to hold public hearing when charges of such violations have been filed with it. The Commission may issue appropriate orders in any such case, in addition to those orders provided for in Subsections (h) and (i) of this Rule.
- (d) To make, alter, amend and promulgate Rules for the impartial administration and regulation of the ~~as authorized by the~~ State Police Service as authorized by the State Police Service Article and otherwise to provide for the establishment and maintenance of ~~a~~ an independent Civil Service system. ~~in departments of State government.~~

- (e) To adjudicate appeals of disciplinary actions taken by the Appointing Authority. To hear commissioned State Police officer's complaints that they have been discriminated against because of their political or religious beliefs, sex or race. To provide decisions that are consistent with the basic tenets of the merit system, the State Police Service Article, the State Police Commission rules, existing jurisprudence and equity and improve the appeal and discipline processes. ~~appeals from employees and others who claim their rights under these Rules and the State Police Commission Article have been violated and to issue appropriate orders in such cases.~~
- (f) To perform such other acts as may from time to time be required of it by the Constitution or by Statute.
- (g) To take such steps as may be necessary to maintain proper order and decorum during the course of its hearings and other proceedings consistent with judicial resolution of matters coming before it for consideration.
- (h) To issue orders withholding compensation from any person who, after investigations by public hearings, has been found by the Commission to be employed or paid by the State contrary to the provisions of the Constitution or the Rules adopted there under. Such orders may be directed to the officer having authority to approve the payroll or assign the paycheck for such employee; and the officer to whom it is directed and any other person to whom such order is directed shall make no payment of compensation or authorize the making of any such payment to such person until authorized by the Commission upon penalty of personal liability for the sum so paid contrary to the order of the Commission and such other penalties as are otherwise provided by the Constitution and/or the Rules.
- (i) To enforce its rules, regulations, and orders in the courts of this State by mandamus or injunction suits.
- (j) Ensure ~~a yearly,~~ that independent audits of the Commission's accounts and equipment ~~is conducted.~~ are conducted regularly. ~~The Commission is authorized to hire a firm to conduct this audit or enlist the services of an outside state agency to conduct this audit. A complete report of this audit will be submitted to the Commission members upon completion of the audit.~~

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

(a) Except as provided for herein in Rule 2.10 (b), the adoption, amendment or repeal of any rule shall be approved by the Commission only ~~upon~~ after fifteen (15) days written notice and approval ~~after~~ in a public hearing, and such adoption, amendment or repeal of any rule shall become effective upon approval of the Commission, unless the Commission specifically provides another effective date.

(b) If the Commission finds that an imminent peril to the public health, safety or welfare or another emergency requires adoption of a rule change without compliance with Rule 2.10(a), the adoption, amendment or repeal of any rule may be approved by the Commission.

(c) Repealed, November 20, 1995.

(d) Repealed, November 20, 1995.

(e) Repealed, November 20, 1995.

2.11 Contempt of the Commission.

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

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

(a) Willful failure to comply with a subpoena or summons to appear before the Commission or its Referee, proof of service of which appears of record.

(b) Willful violation of an order excluding, separating, or sequestering a witness.

(c) Refusal to take the oath or affirmation as a witness, or refusal of a witness to answer a non-incriminating question when ordered to do so by the Commission or its Referee.

(d) Insolent or disorderly behavior toward the Commission or an attorney or other officer or Referee of the Commission, tending to interrupt or to interfere with the business of the Commission or its Referee or to impair its dignity or respect for its authority.

- (e) Breach of the peace, boisterous conduct, or violent disturbance tending to interrupt or to interfere with the business of the Commission or its Referee or to impair its dignity or respect for its authority.
- (f) Use of insulting, abusive or discourteous language by an attorney or other person before the Commission or its Referee, or in a motion, plea, brief or other document filed with the Commission or its Referee in irrelevant criticism of the Commission, a Commissioner, an attorney, the Director or his staff, or an officer or Referee of the Commission.
- (g) Action by any person taken or ordered to be taken without approval of the Commission when such approval for the actions is required by either the State Constitution or by the State Police Commission Rules.
- (h) Failure of any person to comply with any order or directive of the Commission unless otherwise stayed by a Court of proper jurisdiction or unless within the time limits for such compliance provided by applicable rule or law.
- (i) Willful failure of an attorney to appear at the time and place set for the hearing in which he is to participate.

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

- (a) Upon request by certified letter from the Director of the Department of State Civil Service, or his representative, all persons within the State Police Service so notified shall fully cooperate with any public investigation being conducted by the Department of State Civil Service, including being interviewed and truthfully answering all questions and/or providing all requested documents.
- (b) Failure of any person within the State Police Service to fully and truthfully cooperate in public investigations being conducted by the Department of State Civil Service shall constitute contempt of the State Police Commission, and such persons shall be punished accordingly.

2.12 Procedure for Punishing for Contempt

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

2.13 Penalties for Contempt

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

2.14 Commanding Immediate Presence

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

2.15 Opportunity to Address the Commission

(a) In order to inform itself, so as to better perform its executive and legislative functions, during regularly or specially scheduled meetings, or otherwise as determined by the Commission, the Commission may provide an opportunity for employees and/or others to address the Commission on subjects relevant to its jurisdiction.

(b) Matters relating to specific individual circumstances, which are, may or should be the subject of an appeal to the Commission, and/or requests for specific relief for individuals shall not be heard during such proceeding.

(c) Except as provided by Rule 2.5(a), only persons and/or issues scheduled by agenda prior to the meeting may be heard during such proceeding.

(d) Employees and/or others wishing to be placed on the Commission's agenda for such purpose must make a written request for such, to be received by the Director at least ten (10) days prior to the meeting at which they wish to appear.

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

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

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

Except where such is impracticable, at least five (5) days prior to the Commission meeting, the Director shall ~~mail~~ send notification to or otherwise notify the person making the request that they have been placed on the Commission's agenda and of the date, time and place of such appearance, or that the request has been declined or not considered. When a request is declined or not considered, the Director shall state the reason for such in writing, a copy of which shall be sent to each Commission member.

The hearing will be held in the Louisiana State Police Commission Suite 208, Office of Management and Finance and OMV Building, 7979 Independence Boulevard, Baton Rouge, Louisiana.

Individuals who wish to comment on this proposal may do so at the public hearing, by writing to the Director of State Police Commission at Post Office Box 66555, Baton Rouge, Louisiana, 70899-6555, or by emailing at cathy.derbonne@la.gov If any accommodations are needed, please notify the Department at (225) 925-4996 prior to the meeting.

Sincerely,

s/Cathy Derbonne
Executive Director