

MINUTES
STATE POLICE COMMISSION
JANUARY 23, 1995

The State Police Commission convened its monthly meeting at 9:15 a.m., on Monday, January 23, 1995, in the Conference Room, Eleventh Floor, Wooddale Towers Building, 1885 Wooddale Boulevard in Baton Rouge, Louisiana. Present were James R. Conway, III, Chair and Members Larry J. Caillier, Gary M. Clark, Larry W. Jeane, Helen E. Mendell and Richard N. Kinsey.

At the outset of the meeting, Chair Conway announced the resignation of Member Joseph Booth, effective January 23, 1995. Additionally, Mr. Conway welcomed two newly appointed members, Mr. Larry J. Caillier and Dr. Gary M. Clark.

On motion duly made and seconded, by unanimous vote of the members present, the Minutes of the December 19, 1994 meeting were approved.

Pursuant to the provisions of State Police Commission Rule 2.1(b), election of the Chairman and Vice-Chairman was held. On motions duly made and seconded, Richard N. Kinsey was elected Chairman and Larry W. Jeane was elected Vice-Chairman. At the conclusion of the election for the position of Chairman, the conduct of the meeting was turned over to Chairman Kinsey by James R. Conway, III.

The Commission received comments from the following individuals relative to the amendment of State Police Commission Rule 12.2(b): Russell J. Culotta; Ronald B. Jones; Walter L. Smith, III; Foye L. Lowe, Jr. and Kermit W. Smith. After motion duly made and seconded, by majority vote of the members present, the Commission voted to amend State Police Commission Rule 12.2(b) to read as follows: "No suspension shall exceed 520 (five hundred twenty) working hours without approval of the Commission", with an effective date of January 23, 1995. Member Larry J. Caillier voted in opposition to the amendment.

On motion duly made and seconded, by unanimous vote of the members present, the Commission voted to appoint Norman W. Ershler as Referee in the following appeals: Appeal of Robert A. Harrison, Docket No. 94-48-S; Appeal of William H. Favor, Docket No. 94-53-O; and Appeals of Alfred J. Landry, Jr., Docket Nos. 94-54-S, 94-58-S and 94-59-T (consolidated).

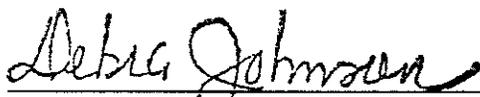
The continuation of the public hearing of the Appeal of Robert A. Harrison, Docket No. 94-48-S, was called. Upon completion of testimony, evidence, stipulations and all arguments by the parties, the matter was taken under advisement, with a written decision to be forthcoming.

The public hearing of the Appeal of William H. Favor, Docket No. 94-53-O, was called. Upon completion of testimony, evidence, stipulations and all arguments by the parties, the matter was taken

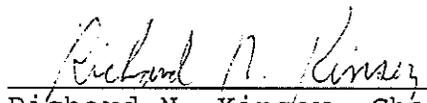
under advisement, with a written decision to be forthcoming.

Upon the completion of the Commission's agenda, by unanimous vote of the members present, the Commission entered into Executive Session, at 3:10 p.m. The Commission then ended its Executive Session and reconvened its public session, at the conclusion of which, the Commission adjourned at 4:20 p.m., until Monday, February 20, 1995, at 9:00 a.m.

Respectfully submitted:



Debra L. Johnson, Director



Richard N. Kinsey, Chairman



MINUTES

STATE POLICE COMMISSION

FEBRUARY 20, 1995

The State Police Commission convened its monthly meeting at 9:18 a.m., on Monday, February 20, 1995, in Classroom No. 1, Administration Building, State Police Training Academy, 7901 Independence Boulevard in Baton Rouge, Louisiana. Present were Vice-Chairman Larry W. Jeane and Members Helen E. Mendell and Gary M. Clark. Chairman Richard Kinsey arrived at the meeting at 10:37 a.m. Also present were Norman Ershler and Debra Johnson.

During the employee opportunity to address the Commission, the Commission received comments from Dale Hall and Baxter Welch relative to General Circular No. 42, concerning time in grade, formal education points and availability forms utilized in the promotion process.

On motion duly made and seconded, by unanimous vote of the members present, the Minutes of the January 23, 1995 meeting were approved.

The public hearing of the appeal of Alfred J. Landry, Jr., Docket No. 94-54-S was called. Upon completion of testimony, evidence, stipulations and all arguments by the parties, the matter was taken under advisement, with a written decision to be forthcoming.

Due to the lateness of the hour, the public hearing of the appeal of Alfred J. Landry, Jr., Docket No. 94-58-S was continued.

At the conclusion of the appeal hearing, the Commission entered into executive session. The Commission ended its executive session and reconvened its public session, at the conclusion of which, the Commission adjourned at 6:00 p.m., until Monday, March 20, 1995.

Respectfully submitted:


Debra L. Johnson, Director


Richard N. Kinsey, Chairman

MINUTES

STATE POLICE COMMISSION

MARCH 20, 1995

The State Police Commission convened its monthly meeting at 9:14 a.m. on Monday, March 20, 1995, in the Conference Room, Eleventh Floor, Wooddale Towers Building, 1885 Wooddale Boulevard in Baton Rouge, Louisiana. Present were Chairman Richard N. Kinsey, Vice-Chairman Larry W. Jeane and Member Gary M. Clark. Member Helen E. Mendell arrived at 9:20 a.m.. Member James R. Conway, III was absent.

On motion duly made and seconded, by unanimous vote of the members present, the Minutes of the February 20, 1995 meeting were approved.

The public hearing of the appeal of Daniel Diddon, Docket No. 94-60-T was called. On motion duly made and seconded, by unanimous vote of the members present, the Commission voted to appoint Norman Ershler as Referee for the taking of testimony in this matter. Upon completion of testimony, evidence and all arguments by the parties, the matter was taken under advisement, with a written decision to be forthcoming.

Upon the completion of the Commission's agenda, by unanimous vote of the members present, the Commission entered into Executive Session at 3:40 p.m. The Commission then ended its Executive

Session and reconvened its public session, at the conclusion of which, the Commission adjourned at 5:35 p.m., until Monday, April 17, 1995.

Respectfully submitted:


Debra L. Johnson, Director

Richard N. Kinsey, Chairman

MINUTES

STATE POLICE COMMISSION

APRIL 17, 1995

The State Police Commission convened its monthly meeting at 9:20 a.m., on Monday, April 17, 1995, in the Conference Room, Eleventh Floor, Wooddale Towers Building, 1885 Wooddale Boulevard in Baton Rouge, Louisiana. Present were Vice-Chair Larry W. Jeane and Members Gary M. Clark and James R. Conway, III. Chairman Richard N. Kinsey and Member Helen E. Mendell were absent.

On motion duly made and seconded, by unanimous vote of the members present, the Minutes of the March 20, 1995 meeting were approved.

The public hearing of the appeal of Feddrick Thomas, Jr., Docket No. 94-61-S, was called. On motion duly made and seconded, by unanimous vote of the members present, the Commission voted to appoint Norman Ershler as Referee for the taking of testimony in this matter. At the outset of the hearing, appellant moved the Commission to summarily grant the appeal on the ground that the suspension did not provide detail reasons, as is required by State Police Commission Rules. After taking some evidence, including that of the appellant, pursuant to State Police Commission Rule 13.19(e), the Commission unanimously voted to deny the appeal.

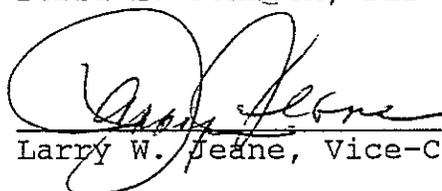
The public hearing of the appeal of Alfred J. Landry, Jr., Docket No. 94-58-S, was called. On motion duly made and seconded, by unanimous vote of the members present, the Commission voted to appoint Norman Ershler as Referee for the taking of testimony in

this matter. At the conclusion of the hearing, the matter was taken under advisement.

Upon the completion of the Commission's agenda, there being no further business, the Commission adjourned at 4:30 p.m., until Monday, May 15, 1995.

Respectfully submitted:


Debra L. Johnson, Director


Larry W. Jeane, Vice-Chairman

MINUTES

STATE POLICE COMMISSION

MAY 15, 1995

The State Police Commission convened its monthly meeting at 9:10 a.m., on Monday, May 15, 1995, in the Conference Room, Eleventh Floor, Wooddale Towers Building, 1885 Wooddale Boulevard in Baton Rouge, Louisiana. Present were Chairman Richard N. Kinsey, Vice-Chair Larry W. Jeane and Members Genevieve L. May and Lori Ann Landry. Member Gary M. Clark arrived at 9:20 a.m.. Members James R. Conway, III and Helen E. Mendell were absent.

On motion duly made and seconded, by unanimous vote of the members present, the Minutes of the April 17, 1995 meeting were approved.

The public hearing of the appeal of Kimberly Allison-Leblanc, Docket No. 94-63-0, was called. On motion duly made and seconded, by unanimous vote of the members present, the Commission voted to appoint Norman W. Ershler as Referee for the taking of testimony in this matter. At the conclusion of this hearing, the Referee requested post-trial memoranda of law, which were to be filed by appellant and appellee on May 17, 1995 and May 19, 1995, respectively.

On motion duly made and seconded, by unanimous vote of the members present, the Commission entered into an Executive Session to discuss the Allison-LeBlanc appeal and other previously heard appeals.

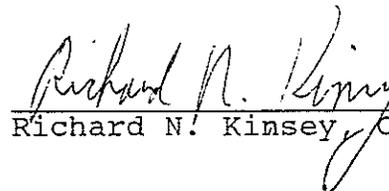
At the conclusion of the Executive Session, the Commission resumed its General Business Session and, there being no further

business, the Commission adjourned at 11:50 a.m., until Monday,
June 19, 1995.

Respectfully submitted:



Debra L. Johnson, Director



Richard N. Kinsey, Chairman

MINUTES

STATE POLICE COMMISSION

JUNE 19, 1995

The State Police Commission convened its monthly meeting at 9:15 a.m., on Monday, June 19, 1995, in the Conference Room, Eleventh Floor, Wooddale Towers Building, 1885 Wooddale Boulevard in Baton Rouge, Louisiana. Present were Chairman Richard N. Kinsey, and Members Genevieve L. May, Lori Ann Landry, Gary M. Clark and James R. Conway. Member Helen E. Mendell and Vice-Chair Larry W. Jeane were absent. Also present were Debra L. Johnson and Norman W. Ershler.

During the employee opportunity to address the Commission, the Commission received comments from Kermit Smith relative to a perceived pay inequity resulting from the most recent pay increase for Sergeants and Lieutenants.

On motion duly made and seconded, by unanimous vote of the members present, the Minutes of the May 15, 1995 meeting were approved.

The Commission took up a proposed amendment to the Pay Plan granting a one time supplemental salary increase, which was adopted by it on November 21, 1994, this matter having been added to its agenda by General Circular No. 14. After receiving comments from State Police Commission Director Debra L. Johnson, Commission members and others, Mr. Conway moved to amend the proposed amendment, eliminate the June 4, 1995 distribution date and make the distribution date that proposed by the Governor. Mr. Conway's motion was seconded. Thereafter, by unanimous agreement of the

Commission, this matter was tabled in order to allow Director Johnson to obtain and present to the Commission further information concerning this matter.

The public hearing of the appeal of Lawrence L. Antoine, Docket No. 94-64-T, was called. On motion duly made and seconded, by unanimous vote of the members present, the Commission voted to appoint Norman W. Ershler as Referee for the taking of testimony in this matter. Shortly after it began, the hearing of this appeal was temporarily suspended to allow the Commission to continue its consideration of the proposed amendment to the November 21, 1994 Pay Plan.

After receiving additional comments from Director Johnson, Commission Members and others, and discussion by the Commission, Mr. Conway withdrew his earlier made motion and, by unanimous vote, the Commission adopted the amendment of the November 21, 1994 Pay Plan as proposed.

The Appeal of Lawrence L. Antoine, Docket No. 94-64-T, was resumed and, at the conclusion of the hearing, the Commission took the appeal under advisement.

On motion duly made and seconded, by unanimous vote of the members present, the Commission entered into an Executive Session to discuss the Antoine appeal and other previously heard appeals.

At the conclusion of the Executive Session, the Commission resumed its General Business Session and, there being no further business, the Commission adjourned at 6:10 p.m., until Monday, July 17, 1995.

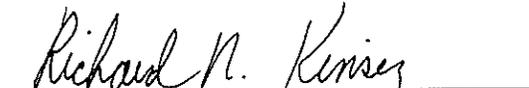
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Respectfully submitted:


Debra L. Johnson, Director


Richard N. Kinsey, Chairman

MINUTES

STATE POLICE COMMISSION

JULY 17, 1995

The State Police Commission convened its monthly meeting at 9:20 a.m. on Monday, July 17, 1995 in the Conference Room, Eleventh Floor, Wooddale Towers Building, 1885 Wooddale Boulevard in Baton Rouge, Louisiana. Present were Chairman Richard Kinney, Vice-Chairman Larry Jeans and Members Helen Mendel and Genevieve May. Absent were Members James Conway, Gary Clark and Lori Landry. Commissioner Jeans departed the meeting at 3:15 p.m.

During the employees' opportunity to address the Commission, the Commission received comments from Baxter W. Welch, President of the Louisiana State Troopers Association relative to promotional testing at regularly scheduled times, a specific regulated number of times, out of town testing, regimented policies on testing disseminated to the Troopers. Ms. Johnson entertained questions from Member Genevieve May relative to regional testing and time frames for promotional testing. Chairman Kinsey questioned Ms. Johnson as to an anticipated time frame for the completion of the development of promotional examinations. Ms. Johnson made comments on the problems of promotional testing four times per year and reasons for testing only twice now. Ms. Johnson advised that a General Circular with specific test times will be issued upon the completion of the development of the Sergeant's examination.

On motion duly made and seconded, by unanimous vote of the members present, the Commission adopted the amendment to the State Police Commission Rule 6.3(d).

On motion duly made and seconded, by unanimous vote of the members present, the Commission voted to approve the minutes of the June 19, 1995 meeting.

The public hearing of the appeal of the appeal of WAYNE TAYLOR, Docket No. 95-65-S was called. On motion duly made and seconded, by unanimous vote of the members present, the Commission voted to appoint Norman Ershler as Referee for the taking of testimony in this matter. At the conclusion of the hearing, the Commission took the matter under advisement, with a written decision to be forthcoming.

The public hearing of the appeal of RANDOLPH JOHNSON, Docket No. 95-66-S, was called. On motion duly made and seconded, by unanimous vote of the members present, the Commission voted to appoint Norman Ershler as Referee for the taking of testimony in this matter. At the outset of the hearing, counsel for appellant withdrew the allegations of retaliation and discrimination contained in the notice of appeal. Therefore, the Order to Show Cause was dismissed. At the conclusion of the hearing, the Commission took the matter under advisement, with a written decision to be forthcoming.

At the conclusion of the appeal hearings, on motion duly made and seconded, and by majority vote of the members present, the Commission entered into an executive session at 3:45 p.m. At the conclusion of an executive session, the Commission reentered into a public session. There being no further business, the Commission adjourned its meeting at 6:00 p.m. until Monday, August 21, 1995.

Respectfully submitted:


Debra L. Johnson, Director

Richard N. Kinsey, Chairman

MINUTES

STATE POLICE COMMISSION

AUGUST 21, 1995

The State Police Commission convened its monthly meeting at 9:13 a.m., in the Conference Room, Eleventh Floor, Wooddale Towers Building, 1885 Wooddale Boulevard in Baton Rouge, Louisiana. Present were Chairman Richard N. Kinsey, Members Gary M. Clark, Lori Ann Landry and Genevieve L. May. Vice-Chairman Larry W. Jeane arrived at 9:40 a.m. Members James R. Conway, III and Helen E. Mendell were absent.

There were no employees present at the employees' opportunity to address the Commission.

On motion duly made and seconded, by unanimous vote of the members present, the Commission voted to approve the Minutes of the July 17, 1995 meeting.

The public hearing of the appeal of HENDERSON GIBBS, Docket No. 95-68-PT was called. On motion duly made and seconded, by unanimous vote of the members present, the Commission voted to appoint Norman W. Ershler as Referee for the taking of testimony in this matter. Pursuant to the provisions of State Police Commission Rule 13.22(b), the matter was dismissed for nonappearance of the appellant.

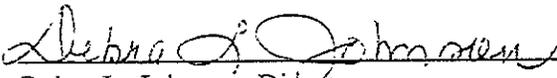
The public hearing of the appeal of KEVIN E. JOHNSON, Docket No. 95-69-O was called. On motion duly made and seconded, by unanimous vote of the members present, the Commission voted to appoint Norman W. Ershler as Referee for the taking of testimony in this matter. Pursuant to the provisions of State Police Commission Rule 13.22(b), the matter was dismissed for nonappearance of the appellant or his attorney of record.

The public hearing of the appeal of JAMES E. JORDAN, JR., Docket No. 95-70-S, was called. On motion duly made and seconded, by unanimous vote of the members present, the

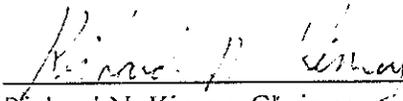
Commission voted to appoint Norman W. Ershler as Referee for the taking of testimony in this matter. Upon completion of all evidence and arguments, and with post hearing memoranda due by August 28, 1995, the matter was taken under advisement, with a written decision to be forthcoming.

At the conclusion of the appeal hearings, on motion duly made and seconded, by majority vote of the members present, the Commission entered into an executive session at 4:00 p.m. At the conclusion of an executive session, the Commission reentered into a public session. There being no further business, the Commission adjourned its meeting at 4:35 p.m. until Monday, September 18, 1995.

Respectfully submitted:



Debra L. Johnson, Director



Richard N. Kinsey, Chairman

MINUTES

STATE POLICE COMMISSION

SEPTEMBER 18, 1995

The September 18, 1995 meeting of the State Police Commission was canceled due to the lack of a quorum of members present. Present were Members Gary M. Clark, James R. Conway, III and Lori Ann Landry. Absent were Chairman Richard N. Kinsey, Vice-Chairman Larry W. Jeane and Members Helen E. Mendell and Genevieve L. May.



MINUTES

STATE POLICE COMMISSION

OCTOBER 16, 1995

The October 16, 1995 meeting of the State Police Commission was canceled due to the continuation of the public hearing of the Appeal of Robert E. Hilburn, II and the resulting lack of sufficient General Business Agenda items to convene a meeting. The next meeting will occur on Monday, November 20, 1995.



MINUTES

STATE POLICE COMMISSION

NOVEMBER 20, 1995

The State Police Commission convened its monthly meeting at 9:18 a.m. in the Conference Room, Eleventh Floor, Wooddale Towers Building, 1885 Wooddale Boulevard in Baton Rouge, Louisiana. Present were Chairman Richard N. Kinsey and Members Gary M. Clark, James R. Conway, III, Lori Ann Landry, Genevieve L. May and Helen E. Mendell. Absent was Vice-Chairman Larry W. Jeane.

There were no employees present at the employees' opportunity to address the Commission.

On motion duly made and seconded, by unanimous vote of the members present, the Commission voted to approve the Minutes of the August 21, 1995 meeting.

The Commission received a presentation from Russell Culotta relative to a leave of absence, with full pay, from April 2, 1994 through January 3, 1995, for Master Trooper John B. Matte, pursuant to the provisions of State Police Commission Rule 11.21.1. On motion duly made and seconded, and by majority vote of the members present, the Commission granted the Department's request for a leave of absence, contingent upon Trooper Matte returning all workers' compensation checks to the State of Louisiana.

The Commission reviewed previously submitted writings from the Department of Public Safety and Corrections, Office of State Police, as well as General Circular No. 50 and received comments from James Conway, Russell Culotta, Helen Mendell and Debra Johnson relative to the revision of State Police Commission Rules 2.10(a), (b) and 3.1(o), as well as repeal of State Police Commission Rules 2.10(c), (d) and (e). On motion duly made, seconded and passed, by majority vote of the members present, the Commission adopted the following rules, effective November 20, 1995:

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

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

3.1 Duties of the Director.

It shall be the duty of the Director of Personnel

- (o) To review and approve or disapprove all contracts entered into between the Office of State Police and all persons, firms, corporations or other entities rendering personal services to or on behalf of the Office of State Police. Said contracts shall be submitted to the Director by the Office of State Police prior to the effective date of the contract.

Upon receipt of the contract, the Director shall approve or disapprove the contract or, where the Director finds that the contract does not provide for services within the State Police Service, the Director shall return the contract without action. In such case, the Director shall state, in writing, the basis for returning the contract.

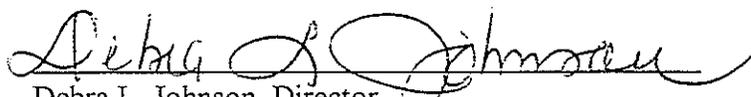
When the Director disapproves a contract, the Director shall state in the instrument of disapproval the position to which such services are or may be assigned.

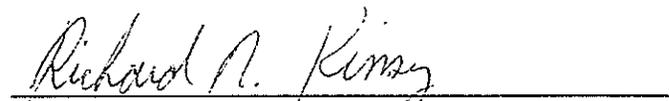
The public hearing of the appeal of Martin L. Zaunbrecher, Docket No. 95-72-S, was called. On motion duly made and seconded, by unanimous vote of the members present, the

Commission voted to appoint Norman W. Ershler as Referee for the taking of testimony in this matter. Upon completion of all testimony, stipulations, evidence and arguments, the matter was taken under advisement, with a written decision to be forthcoming.

At the conclusion of the appeal hearing, on motion duly made and seconded, by majority vote of the members present, the Commission entered into an executive session. At the conclusion of an executive session, the Commission reentered into a public session. There being no further business, the Commission adjourned its meeting at 3:50 p.m. until Monday, December 18, 1995.

Respectfully submitted:


Debra L. Johnson, Director


Richard N. Kinsey, Chairman



MINUTES

STATE POLICE COMMISSION

DECEMBER 18, 1995

Prior to the beginning of the meeting, Referee Norman Ershler began the hearing of the appeal of Johnell Temple, Docket No. 95-73-T. Present at that time were Vice-Chairman Larry W. Jeane and Members Lori Ann Landry and Genevieve L. May. After hearing preliminary motions, the Referee recessed the hearing for the Commission's general business session.

The State Police Commission convened its monthly meeting at 9:35 a.m. on Monday, December 18, 1995 in the Conference Room, Eleventh Floor, Wooddale Towers Building, 1885 Wooddale Boulevard in Baton Rouge, Louisiana. Present were Vice-Chairman Larry W. Jeane and Members Lori Ann Landry and Genevieve L. May. Chairman Richard N. Kinsey arrived at 10:20 a.m. Members Gary M. Clark, James R. Conway, III and Helen E. Mendell were absent.

There were no employees present at the employees' opportunity to address the Commission.

On motion duly made and seconded, by unanimous vote of the members present, the Commission voted to approve the Minutes of the November 20, 1995 meeting.

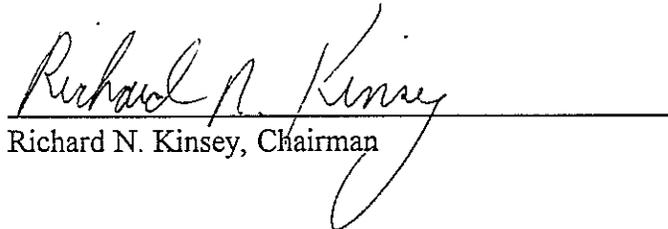
The Commission received comments from Commissioner Landry and Norman Ershler relative to the adoption and revision of State Police Commission Rules 13.14, 13.15, 13.19, 13.20, 13.22 and 13.36. On motion duly made, seconded and passed, by unanimous vote of the members present, the Commission adopted the rules, effective December 18, 1995. (See Attachment A)

At the conclusion of its general business session, the Commission returned the hearing to Referee Ershler to continue the Temple appeal.

At the conclusion of the appeal hearing, on motion duly made and seconded, by unanimous vote of the members present, the Commission entered into executive session, at the conclusion of

which the Commission reentered into public session. There being no further business, the Commission adjourned its meeting at 5:30 p.m. until Monday, January 22, 1996.


Debra L. Johnson, Director


Richard N. Kinsey, Chairman

ATTACHMENT A

MINUTES

DECEMBER 18, 1995

13.14 Summary Disposition of Appeal.

- (a) Whether on motion of a party or on its own motion, the Commission may summarily dispose of an appeal on the following grounds or in accordance with the provisions of Rule 13.19(e):
1. That the Commission lacks jurisdiction of the subject matter, or of the person against whom relief is sought.
 2. That the appellant has no legal right to appeal.
 3. That the appeal has not been made in the required manner or within the prescribed period of delay.
 4. That the appeal has become moot.
 5. That an appellant has failed to appear at the time fixed for the hearing of his appeal, without having been granted a continuance.
 6. That the written notice expressing the cause for the action complained against is insufficient; or, that the cause as expressed does not constitute legal ground for the disciplinary action.
 7. That the disciplinary action was not taken by the proper appointing authority.
 8. That, after resting its case in chief, the appointing authority has failed to establish by a preponderance the cause for the disciplinary action or the appellant has failed to establish by a preponderance his/her claim of discrimination and/or the violation of a rule.
- (b) Every written request for summary disposition shall contain a certificate, signed by the person filing such, which shall state that the request has been served by certified mail on the adverse party and the date of such service.

- (c) A Referee, on the motion or a party on his or her own motion, may at any time summarily dispose of any preliminary or interlocutory issue, claim or request.
- (d) Prior to the final disposition of an appeal, any determination on a request for any relief by a party may be reconsidered by the Commission or a Referee.
- (e) When the Commission summarily disposes of an appeal, its decision shall be final and appealable on the date it files with the Director its written decision thereon.
- (f) Repealed effective December 18, 1995.

13.15 Assigning Appeals for Hearing.

- (a) The Director shall assign appeals for hearing by the Commission or a Referee, and the Director shall fix the date, time and place for the hearing and give notice thereof in accordance with these rules.
- (b) As far as practicable, or otherwise for good cause, appeals shall be fixed for hearing in docket number order.

13.19 Procedure for Hearing Appeals.

- (e) The Commission or the Referee may require the appellant to give his or her sworn testimony before hearing any other evidence and, if at the conclusion of the appellant's testimony, the Commission or the Referee finds that the appeal is not supported by any just or legal ground, the Commission or the Referee may decline to hear or consider any other evidence and thereafter take appropriate action with regard to the final disposition of such appeal.
- (l) The Commission or the Referee may receive stipulations of undisputed facts from the parties. In the absence of the offering of such, the Commission or the Referee may state for the record such facts which the Commission or the Referee find to be undisputed and, subject to appropriate review, such will be deemed to be proven. Thereafter, the Commission or the Referee may refuse to receive further evidence thereon.

- (m) Subject to the provisions of Subsections (r) and (s), the facts expressed in writing by the appointing authority as cause for disciplinary action shall not be accepted as prima facie true. Evidence shall not be received to supplement or enlarge the expressed cause. The appellant may offer proof to rebut any proof offered by the appointing authority in support of the expressed cause for the disciplinary action.
- (n) Upon the request of any party, or on its or his or her own motion, the Commission or the Referee may order the sequestration of witnesses.

Notwithstanding such sequestration, the appointing authority may designate, in addition to its counsel, any one person to be its representative during the hearing. The appellant shall also have the right to be present at all times during the hearing.

Except as provided in the immediately preceding paragraph, both the representative of the appointing authority and the appellant shall otherwise be subject to the order of sequestration.

13.20 Referees.

- (a) The Commission may appoint a referee to manage an appeal, to hear and decide preliminary and interlocutory issues, claims and/or requests and to hold a hearing and take testimony in an appeal.
- (c) After hearing an appeal, a Referee shall prepare written findings of fact and conclusions of law, which shall be submitted as a recommendation to the Commission. As appropriate, in all determinations, a Referee shall file a written decision, order or memorandum of his or her action.

13.22 Action Upon The Non-Appearance Of A Party.

- (a) If, without good cause or excuse, neither a party nor his or her counsel appears at the time and place fixed for hearing, the Commission, on its own or on the recommendation of a Referee appointed to hear the appeal, may summarily dispose of the appeal, including dismissing or granting the appeal or other appropriate action.
- (b) Subject to the Commission's discretion to continue a hearing, if an appellant or the chosen representative of the appointing authority fails, without good cause or excuse, to appear at the time and place fixed for hearing, but that party's counsel is present, that party shall be deemed to have waived his presence or the presence of his representative.

13.36 Application for Review of a Referee's Decision or Action.

- (a) Within fifteen days after the filing of the Referee's written decision, order or memorandum of action, or by the date of the hearing of the appeal by the Commission, whichever is earlier, any party may file with the Commission a written application requesting review of the decision, order or action of a Referee.

Such application shall contain a certificate, signed by the person filing such, which shall state that the application has been served personally or by mail on the adverse party and the date of such service.

- (b) Subject to the general supervisory jurisdiction of the Commission of its Referees, if an application for review of the decision, order or action of a Referee is not timely filed, such decision, order or action shall become the final decision of the Commission as of the date of that the Referee's decision, order or memorandum of action was filed with the Director.
- (c) An application for review may not be amended or supplemented after the expiration of the delay provided for by Subsection (a).
- (d) Upon application for review, the Commission may, in its discretion, receive evidence on the application and thereafter or summarily, without further evidence, affirm, reverse or modify the decision, order or action of the Referee. If the application has not been timely filed as provided by Subsection (a), the Commission may decline to act on the application for review.