

# State Police Commission

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November 22, 1995

Transmittal Sheet No. 12

To: State Police Commission Members, Colonel Paul Fontenot, Russell Culotta, Foye Lowe, Walt Smith, William Spencer, Baxter Welch, Walter Smith, Floyd Falcon, LSTA Affiliate Presidents and Court of Appeal, First Circuit Judges

From: Debra L. Johnson

Re: Revisions in Chapters 2 and 3 of the State Police Commission Rules

At its November 20, 1995 meeting, on motion duly made and seconded, by unanimous vote of the members present, the State Police Commission adopted and repealed the following rules:

Rules 2.10 (a) and (b) adopted; Rules 2.10 (c), (d) and (e) repealed; and

Rule 3.1 (o) adopted.

These revisions were effective November 20, 1995. Attached for your convenience are complete copies of Chapters 2 and 3 for inclusion in your rules.

If you have any questions, please feel free to contact me.

Sincerely,

*Debra L. Johnson*

Debra L. Johnson  
Director

Attachments (2)

## CHAPTER 2

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

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

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

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

#### 2.3 Rules of Order.

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

#### 2.4 Meetings Open to the Public.

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

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

#### 2.5 Notice of Meetings.

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

#### 2.6 Quorum and Voting.

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

1. Refer a transcript of the record of the matter under consideration to one or more absent members, who shall then vote; or
2. Continue the matter for consideration at a later meeting.

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

#### 2.7 Secretary to the Commission.

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

#### 2.8 Minutes of the Proceedings.

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

#### 2.9 Powers of the Commission.

The Commission is empowered:

- (a) To represent the public interest in the improvement of personnel administration in the departments whose personnel practices are governed by the Article and the State Police Commission Rules.
- (b) To appoint and remove and otherwise discipline the Director.
- (c) To conduct investigations whenever it has reason to believe the provisions of the State Police Commission Article or Rules are being violated or have been violated by any person or department; and to hold public hearing when charges of such violations have been filed with it. The Commission may issue appropriate orders in any such case, in addition to those orders provided for in Subsections (k) and (l) of this Rule.
- (d) To make, alter, amend and promulgate Rules as authorized by the Article and otherwise to provide for the establishment and maintenance of a Civil Service system in departments of State government.
- (e) Repealed, effective January 1, 1975.
- (f) To hear appeals from employees and others who claim their rights under these Rules and the State Police Commission

Article have been violated and to issue appropriate orders in such cases.

- (g) Repealed, effective January 1, 1975.
- (h) Repealed, effective June 30, 1972.
- (i) To perform such other acts as may from time to time be required of it by the Constitution or by Statute.
- (j) 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.
- (k) To issue orders withholding compensation from any person who, after investigations by public hearings, has been found by the Commission to be employed or paid by the State contrary to the provisions of the Constitution or the Rules adopted thereunder. Such orders may be directed to the officer having authority to approve the payroll or assign the paycheck for such employee; and the officer to whom it is directed and any other person to whom such order is directed shall make no payment of compensation or authorize the making of any such payment to such person until authorized by the Commission upon penalty of personal liability for the sum so paid contrary to the order of the Commission and such other penalties as are otherwise provided by the Constitution and/or the Rules.
- (l) To enforce its rules, regulations, and orders in the courts of this State by mandamus or injunction suits.

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

- (a) Except as provided for herein in Rule 2.10(b), the adoption, amendment or repeal of any rule shall be approved by the Commission only upon thirty (30) days written notice and approval after a public hearing, and such adoption, amendment or repeal of any rule shall become effective upon approval of the Commission, unless the Commission specifically provides for another effective date.
- (b) If the Commission finds that an imminent peril to the public health, safety or welfare or another emergency requires adoption of a rule change without compliance with Rule 2.10(a), the adoption, amendment or repeal of any rule may be approved by the Commission.
- (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) Wilful failure to comply with a subpoena or summons to appear before the Commission or its Referee, proof of service of which appears of record.
- (b) Wilful violation of an order excluding, separating, or sequestering a witness.
- (c) Refusal to take the oath or affirmation as a witness, or refusal of a witness to answer a nonincriminating 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 State Police Commission Rule.
- (h) Failure of any person to comply with any order or directive of the Commission unless otherwise stayed by a

Court of proper jurisdiction or unless within the time limits for such compliance provided by applicable rule or law.

- (i) Wilful failure of an attorney to appear at the time and place set for the hearing in which he is to participate.

#### 2.12 Procedure for Punishing for Contempt.

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

#### 2.13 Penalties for Contempt.

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

2.14

Commanding Immediate Presence.

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



## CHAPTER 3

### DUTIES OF THE DIRECTOR OF PERSONNEL

#### 3.1 Duties of the Director.

It shall be the duty of the Director of Personnel

- (a) To service as the executive and administrative head of the State Police Commission and direct and supervise all of its administrative and technical activities.
- (b) To attend all meetings of the Commission and to act as its secretary and keep minutes of its proceedings.
- (c) To establish and maintain a roster of all employees who are in the Classified Civil Service of the State, in which there shall be set forth to each employee, the class title of the position held, the salary or pay, any change in class title, pay or status, and any other necessary data.
- (d) To appoint and remove and otherwise discipline, under the provision of the State Police Commission Article and Rules, such employees of the State Police Commission, and such experts and special assistants as may be necessary to carry out effectively the provisions of the State Police Commission Article and Rules.
- (e) To formulate and prescribe procedures, consistent with State Police Commission Rules, and to publish them in the Louisiana State Personnel Manual; and to conduct State Police Commission examinations; to maintain list of eligibles; and to certify qualified persons for appointment to the departments.
- (f) To develop, in cooperation with appointing authorities and others, training, educational, and safety programs for Classified employees in the departments governed by the State Police Commission Article.
- (g) To make and publish annual reports regarding the work of the Commission and the Department, and such special reports as he considers desirable to the Commission and to the Governor.
- (h) To perform any other acts and functions which he may consider necessary or desirable to carry out the purposes of the State Police Commission Article, or which he may be directed to perform by the Commission or the Chairman.
- (i) To serve as referee in employee appeals or to appoint a member of the State Police Commission to serve as referee.

- (j) To prepare and submit, subject to review by the Commission, budget requests covering the estimated costs of administering the Civil Service program.
- (k) To act between meetings of the Commission on routine matters requiring Commission approval. Subject to the provisions of Sub-section (n) of this Rule, any such action of the Director shall be reported to the Commission at its next meeting and unless approved by the Commission at such meeting, shall terminate.
- (l) To make such investigations as may be necessary to enforce the provisions of the State Police Commission Article and Rules and to determine the qualifications and suitability of applicants for employment in the Classified Service.
- (m) To establish mandatory grievance procedures within each department to provide the means to resolve employee complaints and other personnel problems not appealable to the Director or the Commission under the State Police Commission Article.
- (n) To act between meetings on piecemeal Classification and Pay Plan matters requiring Commission approval. Any such action by the Director shall be reported to the Commission at the next public hearing called to consider Classification and Pay Plan matters and unless approved by the Commission following such hearing, shall terminate.
- (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.

- (p) To develop and propose to the Commission uniform classification and pay plans and amendments thereto.

- (q) To develop and propose to the Commission, rules and amendments thereto governing employment conditions for employees in the Classified Service.
- (r) To require departments and agencies to establish and implement, in accordance with established policy, an affirmative action program to assure equal employment opportunity in the Classified Service of State government.
- (s) To notify the State Police Commission of any proposal which would effect the pay of jobs in the protective services concurrent with the issuance of the State Police Commission monthly agenda and supplemental agenda.

3.2 Amended and re-enacted as Rule 3.1(k) effective March 15, 1966.

3.3 Amended and re-enacted as Rule 3.1(l) effective March 15, 1966.

3.4 Appointment of the Director.

- (a) Subject to the provisions of Sub-section (b) of this Rule, the Director shall be appointed by the Commission following competitive examination administered in a manner prescribed by the Commission.
- (b) The Commission shall have access to other provisions of these Rules for the temporary, interim appointment of an acting director, if such is necessary.

3.5 Status of the Director.

The Director shall be employed within the Classified Service of the State.