

# State Police Commission



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Transmittal Sheet No. 39

Subject: State Police Commission Rules 2.9(c) and 6.16(f).

Effective Date: February 16, 2005

At its meeting on February 16, 2006, on motion duly made and seconded, by unanimous vote of the members present, the State Police Commission voted to revise State Police Commission Rules 2.9(c) and 6.16(f). Attached are complete copies of Chapters 2 and 6 for inclusion in your Rules.

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 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 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 (h) and (i) 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) 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.

(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 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.
- (i) 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.

#### 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 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) Wilful 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.

- (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.

\*2.15 Opportunity to Address 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 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 requests 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 days prior to the Commission meeting, the Director shall mail 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.



## CHAPTER 6

### PAY PLAN

#### 6.1 Philosophy.

The pay rates for the State's classified workforce will be established in accordance with a system that generally considers such factors as availability of applicants, the quality of the applicant pool, turnover rates, federal law, market competition, pay practices of market competitors, the evaluation system ranking, employees' performance and level of funding available. The State will not be a market leader, but, for the most part, will follow the market as the value of jobs change.

#### 6.2 Preparation of Pay Plan.

- (a) The Director, after consultation with the appointing authority and the state fiscal officer, and after conducting such research as the Director deems appropriate, shall cause to be prepared for submission to the Commission, a uniform pay plan, or amendments thereto, for the classified service. The Director may propose different rates of pay in different localities and areas of the state, depending upon availability of applicants and other factors impacting compensation.
- (b) The Director shall make a recommendation to the Commission concerning a pay structure adjustment at least annually.

#### 6.3 Adoption of Pay Plan.

- (a) Any Pay Plan, or amendments thereto, proposed by the Director shall be submitted to the Commission for its consideration at a public hearing called for this purpose.
- (b) The State Police Commission, upon adoption of a Pay Plan, shall specify the manner in which the Pay Plan is to be implemented.
- (c) A Pay Plan may include, but not necessarily be limited to, an adjustment to the pay structure, an increase of limited duration, a general increase and/or new, revised or abolished jobs.
- (d) A Pay Plan or amendment thereto, when adopted by the Commission after public hearing, shall become effective:
  - 1. After approval in its entirety by the Governor; and
  - 2. Subject to appropriation of sufficient funds by the legislature.

6.4 Rates in Pay Plan.

- (a) The pay range for each job shall consist of established salary rates.
- (b) Subject to the provisions of Rules 6.5(e), 6.8(b), 6.10(c), 6.11, 6.15, 6.16, and 17.11(e) each employee shall be paid at an established salary rate within the range of the job to which the position is allocated.

6.5 Hiring Rate.

Pay upon employment shall be at the lowest salary rate of the range established for the grade of the job to which the position is allocated except:

- (a) Job Appointment.

The pay of a job appointee shall not be reduced when an employee who has been earning more than the hiring rate for the job occupied is then probationally appointed to a position in the same job without a break in service of one or more working days.

- (b) Special Entrance or Retention Rates.

When economic or employment conditions cause substantial recruitment or retention difficulties, the Director may authorize the appointment of qualified applicants at a special entrance rate or may authorize the use of a special retention rate within the range for the job in a limited geographical area or for positions in a job where employment conditions are unusual.

1. The department or departments to which the special rate is made applicable having employees in the same job in the affected area or locale where the special rate will be used, shall increase the pay rate of all such employees to the special rate. All new hires shall be paid at the special entrance rate or special retention rate. An appointing authority may adjust the salaries of employees working in the positions to which the special entrance rate applied to any salary up to but not to exceed the amount of the percent difference between the special rate and the current hiring rate.
2. When special entrance rates or special retention rates are adjusted downward, the individual pay rates of employees occupying positions affected by the authorized rates shall not be changed.
3. Special entrance rates and special retention rates must be approved by the Commission at its next scheduled meeting after action was taken by the Director.

(c) Reentering the Classified Service.

The pay of an employee reentering the classified service, other than one being restored to duty following military service, may be set at any salary rate in the range that does not exceed the highest salary the employee previously earned while serving with permanent status in a classified position other than detail to special duty and does not exceed the salary rate designated for the total number of years of State Police Service by the employee. If the range for the job has been adjusted and the range hiring rate is higher than the employee's former salary, the employee will enter at the hiring rate. If the value of the salary rate column equal to the total number of years of State Police Service acquired by the employee has been raised since the employee's separation, their pay may be set at the higher rate. If the former salary is higher than the range highest salary rate, the employee's pay rate shall be set no higher than the range highest salary rate. The appointing authority may, at any time and to the extent permitted by other provisions of these Rules, grant any increase for which an employee having reentered the classified service possesses eligibility under this subsection. This Rule shall not apply to a former employee who was separated for delinquency, misconduct or unsatisfactory performance, or who resigned to avoid disciplinary action.

(d) Return From Military.

Subject to Rule 8.19, when an employee returns from military service and is restored to duty in their former, equivalent, or lower position, the employee's pay shall be set at the rate earned before leaving the classified State Police Service. If the job or equivalent job had been upgraded or any pay adjustments granted, the employee shall be granted a pay rate reflecting the impact of these adjustments, as though the employee had been in that job at the time of the adjustments. If the employee's rate of pay does not match that of the established salary rate for the total years of State Police Service in the grade assigned to the position the employee will occupy, the employee's salary rate shall be red circled in accordance with the provisions of Rule 6.15.

(e) The Director, with the approval of the Commission, may establish special hire rates for workers employed by the appointing authority which administers federal funds for use in this state, either directly or indirectly, or as a grant-in-aid or to be matched or otherwise, provided the appointing authority is required to, by rule or regulation of, or contract with, a participating federal authority to pay such special rates, except that the appointing authority must comply with the minimum wage rate, as prescribed and required by Federal rules, statutes, regulations and judicial decisions, which such minimum rate is more than that provided for in these rules.

#### 6.5.1 Pay Upon Appointment From a Department Preferred Re-employment List.

Subject to Rule 6.14, the pay of a person appointed from a department preferred re-employment list may be set no higher than the employee's rate of pay at the time of the layoff or displacement action, which entitled the employee to placement on the preferred list from which they are appointed, or at the employee's current rate if such rate is higher based on other provisions of these Rules. Never shall the rate of pay be higher than the range highest salary rate for the class to which appointed.

#### 6.6 Market Rate Job Assignment.

- (a) When the pay range for the grade to which a job is currently assigned either is not sufficient to compete with prevailing market conditions, or is found to exceed prevailing market rates, the Director may, in accordance with Rules 6.1 and 3.1(n), authorize the assignment of the job to a grade with a more appropriate pay range. The individual pay rate of employees occupying jobs which are affected shall be set in accordance with Rule 6.8.

#### 6.7 Rate of Pay Upon Promotion.

- (a) When an employee is promoted to a position in a higher grade, their pay shall be the rate of pay established for the corresponding salary rate at the higher grade.
- (b) When an employee has been detailed with pay to a higher job and is promoted to that same job directly from the detail, their pay eligibility on promotion shall not be less than they received on detail.

#### 6.8 Pay Upon Grade Assignment.

When the Director assigns a job to a different grade or reallocates a position from one job to another:

- (a) If the job to which the position is allocated is in a higher grade or if the job is assigned to a higher grade, the affected employee's pay shall be set in accordance with Rule 6.7.
- (b) If the job to which the position is allocated is in a grade lower than the current job or the job is assigned to a lower grade, the affected employee's pay will not change, but shall be subject to the provisions of Rule 6.15.
- (c) If the job to which the position is allocated is in the same grade, or if the job is assigned to the same grade level, the employee's pay shall not change.

#### 6.9 Pay Upon Reassignment.

When an employee is reassigned to another position, their rate of pay shall not be reduced without their permission.

#### 6.10 Rate of Pay Upon Demotion.

- (a) When an employee is demoted for disciplinary reasons or in lieu of layoff required solely by budgetary reasons, the appointing authority may set the employee's pay at any salary rate within the lower pay range which does not exceed their current rate of pay and the salary rate designated for the total number of years of State Police Service by the employee.
- (b) When an employee takes a voluntary demotion, their rate of pay in the lower grade shall be set at a salary rate within the lower range which does not exceed their current rate of pay and the salary rate designated for the total number of years of State Police Service by the employee as agreed to by the employee and the appointing authority.
- (c) When an employee is involuntarily demoted for non-disciplinary reasons, their pay shall not be changed except for layoffs required solely by budgetary cuts and Rule 6.15 shall apply.

#### 6.11 Rate of Pay on Detail to Special Duty.

When an employee is detailed to special duty, their pay shall not be reduced; if the position is allocated to a job which is assigned to a higher grade, their pay shall be increased to the rate they could receive upon promotion to such position, provided:

- (a) Any such temporary increase granted the employee shall not affect their eligibility for pay increases which they would have acquired in their regular position had they not been detailed.
- (b) At the conclusion of the detail, the employee's pay shall revert to their authorized rate of pay in their regular position.

#### 6.12 Compensation for Part-Time Services.

- (a) When part-time service in any position is authorized or rendered, the actual compensation to be paid shall be the appropriate hourly rate.
- (b) When part-time service is rendered, it shall be the duty of the appointing authority to certify to the Director, on each notice of appointment or change in status of the employee, the percent of full-time hours to be worked.
- (c) An employee paid on a monthly or semi-monthly basis, who is employed for only part of a pay period shall be paid for the proportionate calendar days worked.

#### 6.12.1 Compensation for Holidays.

Employees shall be eligible for compensation on holidays observed, except:

- (a) When the employee's regular work schedule averages less than 20 hours a week;
- (b) When the employee is on restricted appointment;
- (c) When the employee is on leave without pay immediately preceding and following the holiday period; or
- (d) When the employee is on an intermittent work schedule.

#### 6.13 Certification and Payment.

- (a) No employee shall receive any compensation except as authorized by or pursuant to the provisions of Article X, the State Police Commission Rules, the Uniform Classification and Pay Plans, and the policies and procedures issued by the Director.
- (b) If payments to an employee are found to have been made in violation of the provisions of Article X, the State Police Commission Rules, the Uniform Classification and Pay Plans, or the policies and procedures issued by the Director, the Director may take any corrective action deemed appropriate or may direct the appointing authority to take such corrective action. Corrective actions may include, but are not limited to, the rescission of any actions and associated compensation, or restitution to the employee.

#### 6.14 Merit Increases.

- (a) When applying the merit increase, the employee's current pay increases to the rate of pay established for the higher salary rate immediately following the employee's current rate within the pay range for which the employee's job is assigned.
- (b) Upon a new employee's successful completion of the State Police Training Academy, they become eligible for and may be granted a merit increase provided that the appointing authority has determined their performance merits such an award.
- (c) At the end of the new employee's Field Training Officer

(FTO) program, or, if the new employee's position does not require participation in the Cadet FTO program and the new employee has been continuously employed without a break in service of one or more working days for eight (8) months, the employee becomes eligible for and may be granted an additional merit increase provided that the appointing authority has determined their performance merits such an award.

- (d) At the end of each one-year period of continuous employment following the employee's original appointment, the employee may be granted an additional merit increase, not exceeding the salary rate designated for 20 years of State Police Service, if the appointing authority has determined that their performance merits such an award. This date of eligibility shall be known as an anniversary date and shall not change through such continuous employment within the classified service. Upon the employee's twenty fifth year anniversary in the State Police Service, they become eligible for and may be granted a final merit increase, if the appointing authority has determined that their performance merits such an award.
- (e) The appointing authority may, at any time within three (3) years from the date an employee gained eligibility, grant an employee all or any one of the merit increases for which they have attained eligibility provided the employee has not received an unsatisfactory service rating for the applicable year(s). A part-time employee shall receive the same credit they would receive if they were employed on a full-time basis.
- (f) All increases herein authorized are subject to the requirement that no employee's pay shall exceed the highest established salary rate for the range to which the position is assigned.
- (g) An employee's eligibility for the increases authorized in Subsections (b), (c), and (d) shall not be interrupted by time served in the military service if they are reemployed under the provisions of Rule 8.19.
- (h) A former employee who is re-employed following a break in service of one or more working days, except those appointed from a department preferred re-employment list and except those who are restored to duty, under the provisions of Rule 8.19, upon return from military service, shall be considered a "new" employee within the meaning of this rule.

- (i) Any adjustment or increase which an employee receives under the provisions of other rules, unless otherwise indicated, shall not affect such employee's eligibility to receive increases authorized under this rule.
- (j) An employee who has a current service rating of unsatisfactory shall not be eligible for any increase under the provisions of this rule.
- (k) A former employee who is re-employed following certification from a department preferred re-employment list within a year of the layoff date shall retain the anniversary dates and merit increase eligibilities earned under subsections (b), (c), (d), and (e) for which they have not been granted an increase. If re-employed from a preferred list after one year, they shall be considered a new employee with regard to the establishment of their anniversary date and merit increase eligibility.
- (l) An employee on detail to a position in a higher grade may be eligible for a merit increase in the higher job calculated on their individual pay rate in the higher job.

#### 6.15 Red Circle Rates.

- (a) Rates that fall precisely on an established salary rate become the employee's authorized individual pay rate.
- (b) Individual pay rates that fall between established salary rates become temporary red circle rates and remain in effect until the employee becomes eligible for and receives an increase which places their salary on an established salary rate. Individuals whose salary rates are temporarily red circled shall be eligible for any other pay adjustments provided for in the rules.
- (c) Individual pay rates that fall above the highest salary rate established for the grade become red circle rates and remain in effect until the range catches up with the rate. However, eligibility for a red circle rate above the highest salary rate grade is lost upon separation from State Police Service, demotion, or promotion. Individuals whose salary rates are red circled above the highest salary rate shall not be eligible for any other pay adjustments provided for in the rules.
- (d) Red circle rates are assigned under the conditions outlined below:



- (1) When the job to which a position is allocated is assigned to a lower grade.
- (2) When a position is reallocated to a job assigned to a lower pay grade.
- (3) When an adjustment to the pay structure lowers the range for the grade to which a job is assigned.
- (4) When positions are declared to be in the classified service and the employee's current rate of pay falls above the highest salary rate of the range for the grade of the job into which the position(s) are allocated.
- (5) When the employee's pay exceeds the highest salary rate of an approved market grade.
- (6) When an employee has returned from military duty and their pay is set for an amount other than an established salary rate under the provisions of Rule 6.5(c).
- (7) When an employee's pay does not match an established salary rate due to an involuntary demotion for non-disciplinary reasons under the provisions of Rule 6.10(c).

#### 6.16 Special Pay Rates.

Under conditions described below, the Commission may authorize special pay considerations, beyond those already prescribed in these rules.

(a) Shift Differential.

In order to remain competitive with the pay practices of market competitors, additional pay may be authorized for shift work or other non-standard work hours.

(b) Extraordinary Duty.

Additional pay may be authorized for an employee who performs extraordinary duty that is not an integral part of their regularly assigned duties.

(c) Individual Pay Adjustment.

When the appointing authority requests, and can present adequate justification with documentation before the

Commission in public hearing, the Commission may grant a special adjustment in pay for individual employees.

- (d) The appointing authority may, after presenting justifiable reasons in writing to the Commission, and with the Commission's approval, pay an incentive award at any time that the justifications have been shown.
- (e) Premium Pay.

In order to provide a special pay rate to apply to situations which other rules do not cover, the State Police Commission may authorize premium pay for positions in a job where employment conditions are unusual, to remain competitive with the pay practices of market competitors.

- (f) The special pay rates authorized by the Rule shall not be effective until approval by the Commission at a public Hearing; with the limited exception that the State Police Commission Director may grant interim approval of individual pay adjustments for an employee until the next Commission meeting where a pay adjustment request can be placed on the agenda. At that time, the appointing authority shall provide justification for the special pay adjustment. In the event the request is denied by the Commission, the employee shall not suffer any loss of pay from the date of the interim approval until the date the Commission denies the request.

#### 6.17 Pay On Entering the Classified Service

An employee who enters the classified service because their position has been declared to be in the classified service shall have their pay established as follows:

- (a) If the employee's current rate of pay falls on an established salary rate within the range, their rate of pay shall remain the same.
- (b) If the employee's current rate of pay is below the range hiring rate, it shall be brought to the range hiring rate.
- (c) If the employee's current rate of pay is above the range highest salary rate, Rule 6.15 shall apply.
- (d) If the employee's current rate of pay is between salary rates, Rule 6.15 shall apply.

#### 6.18 Definition of Overtime Hour.

An overtime hour is an hour worked by an employee at the direction of the appointing authority:

- (a) On the employee's official holiday; or
- (b) In excess of the regular duty hours in a regularly scheduled workday, as designated under Rule 11.1(c), or 11.2(b); or
- (c) In excess of the regular duty hours in a regularly scheduled workweek, as designated under 11.1(c) or 11.2(b); or
- (d) In excess of forty hours worked during any regularly recurring and continuous seven-day calendar work period, where excessive hours are systematically scheduled. Any holiday observed during the work period is counted as a day worked;
- (e) In excess of eighty hours worked during any regularly recurring and continuous bi-weekly calendar work period, where excessive hours are systematically scheduled. Any holiday observed during this work period is counted as a day worked;
- (f) In excess of the hours worked in a regularly established, continuous and regularly recurring work period, where hours average forty hours per week, regardless of the manner in which scheduled, and where excessive hours are systematically scheduled. Any holiday observed during the work period is counted as a day worked; or
- (g) A day on which the department, or a division thereof, is closed by direction of the appointing authority because of natural emergencies, in accordance with the provisions of Section B(5) of LSA.R.S. 1:55.

#### 6.19 Methods of Compensation for Overtime Hours Worked.

Compensation for overtime, if applicable, shall be one of the following:

- (a) Cash payment at the time and one-half rate (Premium pay, shift differential, and non-cash compensation such as the reasonable cost or fair value of goods and/or facilities which are regarded as part of the employee's wages under the Fair Labor Standards Act may be included in calculating the rate of pay at time and one-half.)

- (b) Cash payment at the regular rate (Premium pay, shift differential, and non-cash compensation such as the reasonable cost or fair value of goods and/or facilities which are regarded as part of wages under the Fair Labor Standards Act shall not be included in calculating the rate of pay at the regular rate.)
  - (c) Compensatory leave earned hour for hour.
  - (d) Compensatory leave earned at the time and one-half rate.
- 6.20 Options for Full-time Employees for Overtime Hours Actually Worked in Excess of Eighty Hours Per Work Period.

As provided by Rule 6.24, the appointing authority shall select and use one of the applicable options listed below for those overtime hours actually worked in excess of 80 hours per work period.

<u>FLSA STATUS</u>	<u>OPTIONS</u>
(a) Nonexempt	<ul style="list-style-type: none"> <li>(1) Cash payment at time and one-half rate; or</li> <li>(2) Compensatory leave earned at time and one-half rate.</li> </ul>
(b) Exempt	<ul style="list-style-type: none"> <li>(1) Cash payment at regular rate; or</li> <li>(2) Compensatory leave earned hour for hour; or</li> <li>(3) No overtime compensation.</li> </ul>

6.21 Overtime Options for Full-Time Employees for Overtime Hours Not Actually Worked in Excess of Eighty Hours per Work Period Due to Holidays Observed or Leave Taken.

The appointing authority shall select and use one of the applicable options listed below for those overtime hours not actually worked in excess of eighty hours per work period due to holidays observed or leave taken.

<u>FLSA STATUS</u>	<u>OPTIONS</u>
(a) Nonexempt	<ul style="list-style-type: none"> <li>(1) Cash payment at regular rate; or</li> <li>(2) Compensatory leave earned hour for hour.</li> </ul>

- (b) Exempt
  - (1) Cash payment at regular rate; or
  - (2) Compensatory leave earned hour for hour; or
  - (3) No overtime compensation.

#### 6.22 Overtime Options for Part-Time Employees.

The appointing authority shall select and use one of the applicable options for:

- (a) A regular part-time employee who works in excess of their scheduled workday or work period, but does not work in excess of eighty hours in a work period:
  - 1. Cash payment at regular rate; or
  - 2. Compensatory leave earned hour for hour.
- (b) A regular part-time employee who works in excess of eighty hours per work period and is nonexempt shall be compensated in accordance with Rule 6.20.
- (c) A regular part-time employee who works in excess of eighty hours per work period and is exempt:
  - 1. Cash payment at regular rate; or
  - 2. Compensatory leave earned hour for hour.
- (d) An intermittent employee:
  - 1. Overtime for work in excess of eighty hours per work period by nonexempt employees shall be compensated in accordance with Rule 6.20; or
  - 2. Overtime for work in excess of eighty hours per work period by exempt employees shall be compensated by cash payment at the regular rate; or
  - 3. Work not in excess of eighty hours per work period is not considered overtime.

6.23 Overtime Options for Work on Holidays.

- (a) The appointing authority shall select and use one of the applicable options for overtime work not in excess of eighty hours per work period performed on holidays.

FLSA STATUS

OPTIONS

1. Nonexempt

(a) Cash payment at time and one-half rate; or

(b) Cash payment at regular rate; or

(c) Compensatory time earned hour for hour.

2. Exempt

(a) Cash payment at regular rate; or

(b) Compensatory time earned hour for hour; or

(c) No overtime compensation.

- (b) Work performed in excess of eighty hours per work period shall receive overtime compensation in accordance with Rule 6.20, whether or not work is performed on a holiday.

6.24 Special Overtime Pay Provisions (Fair Labor Standards Act, Section 7)

The appointing authority may use any of the special overtime pay provisions permitted by the Fair Labor Standards Act; however, if an employee actually works in excess of full-time hours during the pay period, but less than the number of hours required to be treated as overtime under FLSA, Rule 6.20 shall only apply for such overtime hours.

6.25 Caps on Accumulation of Compensatory Leave.

- (a) Employees who accrue Fair Labor Standards Act compensatory leave at the time and one-half rate shall accumulate no more of such compensatory leave than allowed under the Fair Labor Standards Act.
- (b) Once the maximum balance of Fair Labor Standards Act compensatory leave earned at the time and one-half rate is reached, any additional overtime work in excess of 80 hours per two-week pay period must be paid to an eligible

employee in cash at the time and one-half rate.

- (c) Compensatory leave earned hour for hour (non-Fair Labor Standards Act) may be accrued up to a maximum balance of 500 hours at the end of any calendar year. Transfer, cancellation and crediting of compensatory leave is provided for under the provisions of Rule 11.29.

#### 6.26 State Police Commission Review of Nonexempt Positions.

- (a) It is the responsibility of the appointing authority on an ongoing basis to determine whether an employee occupying a position should be considered nonexempt under the Fair Labor Standards Act. Such employees must be paid in accordance with the Fair Labor Standards Act, and prior approval from the Director is unnecessary. Following such determination, the appointing authority shall provide the Director with a listing of such job titles and number of positions.
- (b) Such listing will be reviewed by the Director in order to serve as a check to insure an understanding of the FLSA exemptions and to compare with information provided for classification purposes.

#### 6.27 Exceptions to the Overtime Rules.

Exceptions to the Rules on overtime compensation are as follows:

- (a) For positions which are exempt under the Fair Labor Standards Act, the Commission may grant authority to use any of the options for overtime compensation when:
  1. The appointing authority petitions the Commission for this authority. The Commission, may, with such restrictions as it deems appropriate, permit the use of time and one-half compensation to employees who occupy exempt positions.
  2. The Director petitions the Commission for authority to utilize time and one-half compensation to specific jobs. Such authorizations, when approved, shall be published in a General Circular.
- (b) Unless otherwise required for nonexempt employees under the provisions of the Fair Labor Standards Act or other federal rules, regulations and judicial decisions, cash payment at time and one-half rate, cash payment at the

regular rate, and compensatory leave earned at time and one-half rate do not apply for employees:

1. While performing civilian duty, under the administrative supervision of one other than the appointing authority, during an officially declared national, regional or a local emergency.
  2. While "on call" away from their duty post.
  3. While attending or traveling to and from conventions, workshops, training courses, study groups and related activities.
  4. While performing duties pursuant to a determination made by the appointing authority under the provisions of Rule 11.29(g).
- (c) All payable compensatory leave earned by an employee, before April 15, 1986, who later separated from the classified service to enter the military, shall be paid for such leave at the time and one-half rate upon restoration to duty in accordance with State Police Commission Rules 8.19, 11.26(a), or 11.26(b). This shall apply only to payable leave for which the employee received no payment and which they did not take before separation.

#### 6.28 On-Call Pay.

- (a) The Director may authorize payment of on-call pay through policy directives which establish guidelines for on-call pay and which establish maximum authorized rates. The Commission may authorize on-call pay at a higher rate than established by the Director.
- (b) Such on-call pay is compensation for hours in excess of the employee's regularly scheduled hours of duty, when they are available for call back to their duty station, work-ready, within a specified period, at the direction of the appointing authority. On-call pay is in addition to the employee's regular pay and is not to be included in computation of overtime payments or terminal leave payments allowed under the provisions of other Sections of the Rules. On-call pay shall not be granted to an employee for their regularly scheduled hours of duty. Further, when an employee is called back they shall be considered in duty status and eligible for applicable overtime compensation.



6.29 Other Compensation.

If the appointing authority desires to provide compensation not specifically covered either by Chapter 6 of these Rules, or by the classification and pay plan, it shall obtain approval from the Commission of a plan for providing such compensation, and shall obtain certification in accordance with Rule 6.13, prior to providing such compensation. The alteration of any such plan shall not be made without the prior approval of the Commission.