



## State Police Commission

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Transmittal Sheet No. 66

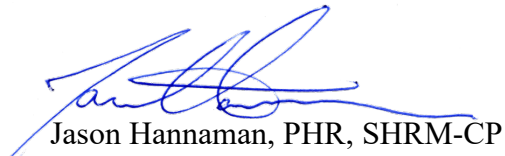
Subject: Revision of Rule 12.4 and Chapter 11 of the State Police Commission Rules.

Effective Date: February 13, 2020

At its meeting on February 13, 2020, on motion duly made and seconded, by unanimous vote of the members present, the State Police Commission voted to revise Rule 12.4 and Chapter 11 of the State Police Commission Rules.

Attached is a complete copy of Chapters 11 and 12 for inclusion in your rules.

Sincerely,



Jason Hannaman, PHR, SHRM-CP  
Executive Director

Attachment

## **CHAPTER 11**

### **HOURS OF WORK, ANNUAL, SICK AND OTHER FORMS OF LEAVE**

#### **11.1 Full-Time Employees.**

- (a) Subject to the provisions of subsections (b) hereof, the work period for each full-time employee in the classified state police service shall be eighty (80) hours in a two week period.
- (b) Subject to the provisions of subsections (a) and (b) of this Rule, the appropriate appointing authority shall designate and record the number of hours and days which will constitute the regular work period of each full-time employee.

#### **11.2 Part-Time Employees.**

- (a) When the services of an employee are not needed on a full-time basis his appointing authority may establish a regular tour of duty for him on a part-time basis.
- (b) The appropriate appointing authority shall designate and record the number of hours and days which will constitute the regular work week of each part-time employee.

#### **11.3 Intermittent Workers.**

When the services of an employee are not needed on a regularly scheduled basis, the appointing authority may appoint an employee to serve on a intermittent hourly, daily, weekly or monthly basis.

##### **11.3.1 Authority To Require Performance of Overtime.**

An employee in the classified state police service may be required by his appointing authority to work overtime.

#### **11.4 (Intentionally left blank)**

#### **11.5 Earning of Annual and Sick Leave.**

- (a) Annual and sick leave shall be earned by each full-time and each part-time employee who has a regular tour of duty, except that no employee shall earn annual or sick leave while serving on restricted appointment or while

using leave from an agency leave pool as defined in Rule 11.34.

(b) The earning of such leave shall be based on the equivalent of years of full-time State service and shall be creditable at the end of each calendar month or at the end of each regular pay period in accordance with the following general schedule.

1. Less than three years of service, at the rate of .0461 hour of annual leave and .0461 hour of sick leave for each hour of regular duty.
2. Three years but less than five years of service, at the rate of .0576 hour of annual leave and .0576 hour of sick leave for each hour of regular duty.
3. Five years but less than ten years of service, at the rate of .0692 hour of annual leave and .0692 hour of sick leave for each hour of regular duty.
4. Ten years but less than fifteen years of service, at the rate of .0807 hour of annual leave and .0807 hour of sick leave for each hour of regular duty.
5. Fifteen or more years of service, at the rate of .0923 hour of annual leave and .0923 hour of sick leave for each hour of regular duty.

(c) (Intentionally left blank)

(d) No employee shall be credited with annual or sick leave

1. For any overtime hour.
2. For any hour of leave without pay.
3. While he is on leave with or without pay, until such time as he returns to active working duty, except where inability to return to duty is caused by illness or incapacity as defined by Rule 1.39.1.
4. For any hour in on-call status outside his regular duty hours as defined in Rules 11.1 and 11.2.
5. For any hour of travel or other activity outside his regular duty hours as defined in Rules 11.1 and

11.2.

6. For any hour of a holiday or other non-work day which occurs while he is on leave without pay.

**11.6 Carrying Leave Forward.**

- (a) Accrued unused annual and sick leave earned by an employee shall be carried forward to succeeding calendar years.
- (b) (Intentionally left blank)

**11.7 Use of Annual Leave.**

- (a) Annual leave must be applied for by the employee and may be used only when approved by the appointing authority or his designated representative.
- (b) Annual leave shall not be charged for non-work days.
- (c) The minimum charge to annual leave records shall not be less than one-half hour.

**11.8 (Intentionally left blank)**

**11.9 Enforced Annual Leave.**

- (a) Subject to subsection (b) hereof, and military leave provisions in Rule 11.26, an appointing authority may require an employee to take annual leave whenever in his administrative judgment such action would be in the best interest of the Department.
- (b) No employee shall be required to reduce his accrued annual leave to less than 240 hours; however, subject to the military leave provisions of Rule 11.26, an employee may be required to take any part or all of his accrued annual leave prior to being granted leave without pay.

**11.10 Payment For Annual Leave Upon Separation.**

- (a) Subject to Sub-section (b) of this Rule each employee upon separation from the Classified Service shall be paid the value of his accrued annual leave in a lump sum disregarding any final fraction of an hour; provided, that the privileges of this rule shall not extend to any

employee who is terminated for theft of agency fund or property. The payment for such leave shall be computed as follows:

1. When an employee is paid wages on an hourly basis, multiply his regular hourly rate by the number of hours of accrued annual leave.
  2. When an employee is paid on other than an hourly basis, determine his hourly rate by converting his salary in accordance with provisions in the uniform pay plan for conversion to a working hourly rate. multiply his converted hourly rate by the number of hours of accrued annual leave.
- (b) No terminal payment for annual leave earned under these Rules shall exceed the value of 300 hours, computed on the basis of the employee's hourly rate of pay at the time of his separation.
- (c) No payment for annual leave under this Rule shall operate to continue the payee as a Classified employee beyond the last day of active duty.
- (d) Payment for annual leave earned under administrative rules or regulations in effect prior to July 1, 1953 may be made upon termination in accord with such rules or regulations.
- (e) When an employee who has been paid under this Rule for accumulated annual leave is re-employed in a classified position, he shall pay the Department which re-employs him the value of such annual leave at the rate paid him less the value of working hours for which he has been paid which intervene between the last day worked and the date of reemployment and shall be given credit for the number of hours of annual leave for which he has made reimbursement.
- (f) Repealed and reenacted as Sub-section (d)6 of Rule 11.5, effective July 1, 1973.
- (g) Repealed, effective June 8, 1983.

**11.11 (Intentionally left blank)**

**11.12 (Intentionally left blank)**

**11.13 Use of Sick Leave.**

- (a) Sick leave may be utilized by an employee who has sufficient leave to his credit for necessary absence from duty because of:
  - 1. Illness or injury which prevents him from performing his usual duties.
  - 2. Medical, dental, or optical consultation or treatment.
  - 3. (Intentionally left blank)
- (b) Sick leave shall not be charged for non-work days.
- (c) The minimum charge for sick leave shall be one-half hour.
- (d) (Intentionally left blank)

**11.14 Certificate Required When Sick Leave Taken.**

An employee who has taken sick leave shall file with his appointing authority a certificate stating the cause of his absence and the amount of time taken. The appointing authority may require a statement from a registered physician or some other acceptable proof that the employee was ill and unable to report to work.

**11.15 (Intentionally left blank)**

**11.16 (Intentionally left blank)**

**11.17 (Intentionally left blank)**

**11.18 Cancellation or Continuance of Annual and Sick Leave.**

- (a) All annual leave accrued by an employee whose services are terminated for cause except that for which he must be paid, and all sick leave accrued by him shall be canceled at the time of termination.
- (b) All annual leave accrued by an employee for which he is not paid upon being laid off and all sick leave accumulated by him shall again be credited to him if he is re-employed within five years following his layoff: provided, that this Subsection shall apply only to a laid

off employee who is re-employed on or after January 1, 1972.

- (c) (Intentionally left blank)
- (d) Subject to the provisions of Rule 11.19, all annual leave accrued by an employee for which he is not paid upon resignation and all unused sick leave accumulated by him shall again be credited to him if he is later employed with probationary, or permanent appointment status in the classified state police service within a period of five years from date of separation; provided, that the privileges of this Rule shall not extend to any employee whose last separation from the classified state police service was by dismissal or resignation to avoid dismissal.
- (e) Subject to the provisions of Rule 11.19 and Subsection (d) hereof, all annual leave for which he is not paid upon resignation and all sick leave accrued by an employee who resigns shall be canceled.

**11.19 Transferring Annual and Sick Leave Between Departments.**

- (a) Repealed, effective July 1, 1973.
- (b) Subject to the provisions of Subsection (c) of this Rule, all annual leave accrued by an employee for which he is not paid and all sick leave accrued by him whenever he changes from employment in one department to employment in another department within a period of thirty calendar days shall be certified by his former department to the other department and shall be credited to the employee.
- (c) All annual leave accrued by an employee for which he was not paid and all sick leave accrued by him at time of separation to enter military service shall be credited to him upon his reemployment in a classified position following such military service.
- (d) The annual and sick leave credits of an unclassified employee, earned under the provisions of an Executive Order of the Governor, who enters the Classified Service without a break in service on one or more working days, shall be certified and credited in the same manner as provided in this Rule for classified employees.

**11.20 (Intentionally left blank)**

### **11.21 Workmen's Compensation Payments.**

When an employee is absent from work due to disabilities for which he is entitled to workmen's compensation he

- (a) shall, to the extent of the amount accrued to his credit, be granted sick leave not to exceed the amount necessary to receive total payments for leave and workmen's compensation equal to his regular salary.
- (b) may, to the extent of the amount accrued to his credit, be granted annual leave or a combination of annual and sick leave not to exceed the amount necessary to receive total payments for leave and workmen's compensation equal to his regular salary.
- (c) may be granted leave without pay.

#### **11.21.1 Disabled in the Performance of Duty**

- (a) When an employee engaged in law enforcement work is disabled while in the performance of duty of a hazardous nature, and because of such disability is unable to perform his usual duties, his appointing authority may, with prior approval of the Director, grant such disabled employee a leave of absence with full pay not to exceed six months during the period of such disability without charge against the employee's accumulated sick or annual leave, provided such employee must pay to his Department all amounts received by him as Workmen's Compensation benefits. Requests for such leave shall be submitted in writing by the appointing authority and shall include all information necessary to determine whether an employee is covered by this Rule.
- (b) If a request, made in accordance with the provisions of Subsection (a) of this Rule, is found to be questionable or if the leave requested exceeds or later extends beyond six months, the Director shall submit such request to the Commission for its review and approval.

### **11.22 (Intentionally left blank)**

### **11.23 Civil, Emergency, and Special Leave.**

An employee shall be given time off without loss of pay,



annual leave, or sick leave when

- (a) Performing jury duty.
- (b) Summoned to appear as a witness before a court, grand jury, or other public body or commission, provided that for purposes of this Subsection a plaintiff or defendant shall not be considered a witness, nor shall this Subsection apply to an employee summoned as a witness as a result of employment other than State employees.
- (c) Performing emergency civilian duty in relation to national defense.
- (d) His appointing authority determines that he is prevented by an act of God from performing duty.
- (e) (Intentionally left blank)
- (f) Participating in a State Police Commission examination on a regular work day, or taking a required examination pertinent to the examinee's State employment, before a State licensing board.
- (g) The appointing authority determines that because of local conditions or celebrations it is impracticable for his employees in such locality to work.
- (h) The employee is ordered to report for pre-induction physical examination incident to possible entry into the military forces of the United States.
- (i) The employee is a member of the National Guard and is ordered to active duty incident to local emergency, act of God, civil or criminal insurrection, civil or criminal disobedience, or similar occurrences of an extraordinary and emergent nature which threatens or affects the peace of property of the people.
- (j) Engaged in the representation of a client in a criminal proceeding pursuant to an order of a court of competent jurisdiction, provided if compensation for such services is available from another source, he may not accept the special leave and the compensation.
- (k) The employee is a current member of a Civil Air Patrol and incident to such membership is order to perform duty

with troops or participate in field exercises or training, except that such leave shall not exceed 15 working days in any one calendar year and shall not be used for unit meeting or training conducted during such meetings.

#### **11.23.1 Funeral Leave.**

Probationary and permanent employees may be granted time off without loss of pay, annual leave or sick leave when attending the funeral or burial rites of a parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, spouse, mother-in-law, father-in-law, grandparent, or grand-child; provided such time off shall not exceed three (3) days on any one occasion.

#### **11.23.2 Voting Leave.**

A probationary or permanent employee may be granted time off without loss of pay, annual leave or sick leave when voting in a primary, general or special election which falls in his regularly scheduled work day, provided not more than two hours of leave shall be allowed to vote in the parish where he is employed and not more than one day to vote in another parish.

#### **11.24 Educational Leave.**

- (a) Leave without pay for educational purposes may be granted an employee for a period equivalent to the period of attendance at the educational institution.
- (b) Educational leave with pay may be granted an employee for a maximum of thirty calendar days in one calendar year if the course of instruction to be taken is pertinent to the work of the employee in his Department, provided that a permanent employee may be granted such leave for a maximum of ninety calendar days in one calendar year if the Department requires him to take special training.
- (c) Employees granted educational leave without pay may be granted a stipend if there are funds available for that purpose.

#### **11.25 (Intentionally left blank)**

## 11.26 Military Leave.

### (a) Military Leave with Pay.

1. Provided advance notice is given, employees serving on probationary or permanent status, who are members of a Reserve Component of the Armed Forces of the United States, shall be entitled to military leave with pay. Notice shall be in writing. It may be provided by the employee or by an appropriate officer of the branch of the military in which the employee will be serving.
2. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.
3. Maximum military leave with pay for military purposes is fifteen (15) working days per calendar year, except that it shall be limited to fifteen (15) working days for each tour of active duty.

### (b) Use of Annual and Compensatory Leave for Military Purposes.

1. Employees serving on probationary or permanent status, who give advance notice of military obligations and apply for annual or compensatory leave for military purposes, shall be granted such leave.
2. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.

### (c) Use of Leave Without Pay for Military Purposes.

Employees serving on probationary status or permanent status, who have either exhausted annual leave and compensatory time or choose not to use this paid leave for military purposes, shall be placed on leave without pay. This period of leave without pay for military purposes shall not exceed six (6) years. After six years, they shall be separated from the classified state police service.

(d) Rights Upon Return.

Probationary and permanent employees returning to their classified positions under the provisions of this Rule or Rule 8.12, shall return with such seniority, status, pay, and annual and sick leave accrual rates as they would have had if they had not been absent military training or military active duty; however, status is subject to the provision of Rule 9.4.

(e) A probationary or permanent employee, who is a member of a reserve component of the Armed Forces of the United States and is involuntarily called to active duty prior to December 31, 1991 as a result of the August 1990 Persian Gulf Crisis, and is released from satisfactory active military duty, after such involuntary service, upon furnishing appropriate official documents to the appointing authority and where the military base pay was less than the State Police Trooper base pay:

1.

(a) If paid leave was utilized during the entire period of voluntary service, shall be credited with the value of annual and/or compensatory leave represented by the difference in military base pay and state base pay in the same proportion as that annual leave and/or compensatory time was utilized during the period of involuntary service, and said credit shall be in the form of restoration of such leave;

(b) If leave without pay was utilized for the entire period of involuntary service, shall be paid the difference between the military base pay and the state base pay; or,

(c) If leave without pay was utilized for a portion of the period of involuntary service, shall be paid a portion of the difference in military base pay and state base pay that is the same as the portion that leave without pay is of the total of all leave taken. For the remaining portion of the pay difference, part (a) shall apply; and,

Without regard to whether the military base pay was less than the State Police Trooper base pay:

2. shall be allowed fifteen (15) working days per calendar year of military leave with pay;
  3. and shall continue to accrue sick and annual leave for a period not in excess of one year from the beginning date of involuntary service on the same basis as though he had not been activated and be credited such leave and all emoluments upon return from active duty as though he had not been activated;
  4. and shall be retained in either leave with pay or leave without pay status for the duration of the involuntary active duty;
  5. and shall not be subject to separation for the duration of the resulting involuntary active duty, provided he returns to employment within ninety days after his release from active duty;
  6. and may repurchase in one payment only all or part of any annual leave utilized during the period of involuntary service within twenty-four months from return to active state service.
- (f) A probationary or permanent employee, who was called to involuntary active duty as a result of the August 1990 Persian Gulf Crisis, and resigned from state service, may, at his request, and within 90 days of his release from active duty, have his resignation rescinded and become eligible for the benefits of subsection (e) of this rule.

#### **11.27 Leave of Absence Without Pay.**

- (a) An appointing authority may extend leave of absence without pay to an employee for a period not to exceed one year, provided that such leave shall not prolong the period of his appointment.
- (b) After presenting justifiable reasons in writing to the Director and with the approval, an appointing authority may extend to a permanent employee leave of absence without pay for a period or periods in excess of one year.
- (c) The appointing of a provisional employee who fails to return to duty in pay status on or before the first

working day following the expiration date of any period of leave without pay extended him shall terminate as of the close of business on such expiration date.

- (d) The appointment of an employee who has not completed his probationary period and who fails to return to duty in pay status on or before the first working day following the expiration date of any period of leave without pay extended him shall terminate as of the close of business on such expiration.
- (e) A permanent employee who has been extended leave of absence without pay under the provisions of Subsection (a) or (b), or both, hereof shall be restored to duty in pay status on or before the first working day following the expiration of such leave of absence. If the employee fails to report for or refuses to be restored to duty in pay status on the first working day following the expiration of his approved leave of absence without pay, or at an earlier day upon reasonable and proper notice from his appointing authority, he shall be considered as having deserted his position and shall be removed in accordance with the provisions of Chapter 12 of these Rules.
- (f) An appointing authority on its own initiative or at the request of the employee may curtail a period of leave of absence without pay extended to an employee, provided such curtailment is for the best interest of the State service and reasonable and proper notice thereof is furnished to the employee. Curtailment must not conflict with the provisions of Rule 11.26(b).
- (g) In addition to any disciplinary action which may be imposed against an employee for an unapproved absence, such employee may be placed on leave without pay by his appointing authority for the period of unapproved absence.

#### **11.27.1 Leave of Absence to Assume Unclassified Position.**

- (a) Notwithstanding the provision of Rule 11.27(a) and/or (b), upon the acceptance by a permanent employee of a position in the unclassified State Police Service, the employee shall be placed on a leave of absence without pay. The leave of absence shall continue until the employee leaves the unclassified position by termination or resignation.

Upon placing the employee on such leave of absence, that employee's position and all vacancies within the chain of command created by the filling of that position may only be filled on a permanent basis.

- (b) An employee, who has been placed on a leave of absence without pay under the provisions of Subsection (a) hereof, shall be restored to duty, in pay status, on the first working day following the effective date of their termination or resignation from their unclassified position.

If, without valid excuse, the employee fails to report for or refuses to be restored to duty in pay status as provided for in the preceding paragraph, he or she shall be considered as having deserted their position and shall be removed in accordance with the provisions of Chapter 12 of these Rules.

- (c) A probationary employee shall not be placed on leave to serve in an unclassified position.
- (d) If, upon the return of an employee from an unclassified position, their classification position is occupied, the employee with the greatest length of total state service shall retain that position. In such case, the employee with the lesser amount of total state service shall be displaced from that position in accordance with the provisions of Chapter 17.

#### **11.28 Holidays.**

- (a) An employee who is required by his appointing authority to work on his official holiday, shall be entitled to compensatory leave or overtime pay benefits as authorized in Rule 6.23(a).
- (b) When a holiday falls on an employee's regular day off, and the appointing authority required the employee to work on his designated holiday and the actual holiday, the appointing authority shall select only of the two days as the employee's official holiday for overtime compensation as provided by Rule 6.23. The other day is to be compensated as regular overtime work.
- (c) (Intentionally left blank)

## 11.29 Compensatory Leave.

- (a) Subject to provision of Subsections (b) and (g) of this Rule, and in accordance with Rule 6.18 through 6.27 and the requirements of Federal rules, statutes, regulations and judicial decisions, an employee who is required to perform overtime duty may, at the option of the appointing authority, be credited with compensatory leave for the hours he has been required to work.
- (b) Compensatory leave shall not be credited to any employee in the classified service while he is serving on an intermittent basis.
- (c) Subject to the provisions of Subsections (e) and (f) of this Rule, compensatory leave credited to an employee may be used by him, with the approval of his appointing authority.
- (d) An employee who has been credited with compensatory leave may be required, by his appointing authority, to take all or part of such leave at any time.
- (e) Upon separation or transfer from a department, the following shall apply to compensatory leave balances:
  - 1. All unused compensatory leave earned at the time and one-half rate and credited to an employee shall be paid upon his separation or transfer from the department in which he earned it at one of the rates below, whichever is higher:
    - (a) The average regular rate received by the employee during the last three years of his employment, or
    - (b) The final regular rate received by the employee.
  - 2. All unused compensatory leave earned hour for hour and credited to an employee may be paid upon his separation or transfer from the department in which he earned it at the final regular rate received by the employee, excluding premium pay, shift differential, and non-cash compensation.
  - 3. All unused compensatory leave earned hour for hour, if not paid to the employee upon separation shall



be canceled upon his separation or transfer from the department in which he earned it. Such leave shall not be re-credited to him upon his reemployment in that or any other department.

- (f) Caps on accumulation of compensatory leave are found under the provisions of Rule 6.25. Excess accumulation of compensatory leave earned hour for hour (non-Fair Labor Standards Act) will be canceled at the end of the fiscal year.
- (g) When in his administrative judgment, an appointing authority determines that overtime duty must be performed by one or more of his employees incident to national or local emergency, act of God, civil or criminal insurrection, civil or criminal disobedience, or similar occurrences of an extraordinary and emergent nature which threatens or affects the peace or property of the people, he may require such employees to perform overtime duty; and the provisions of Rules 11.29(a), 6.20, 6.21, 6.22, and 6.23 shall not apply to such duty unless such overtime is required by Federal rules, statutes, regulations, and judicial decisions.
- (h) Amended and re-enacted, effective March 17, 1980, as Rule 11.29(f).
- (i) Amended and re-enacted, effective March 17, 1980, as Rule 11.29(g).
- (j) Amended and re-enacted, effective March 17, 1980, as Rule 11.29(g).
- (k) An agency may pay the balance of an employee's compensatory time at any time. The rate of pay shall be calculated in accordance with the rules.

**11.30 (Intentionally left blank)**

**11.31 Forms.**

The department shall maintain uniform records on all types of leave on forms prescribed by the Director.

**11.32 (Intentionally left blank)**

**11.33 (Intentionally left blank)**

### 11.34 Crisis Leave Pool

Subject to the provisions of Rule 11.5(a), the appointing authority may establish a policy to implement and administer a pool of shared compensatory, annual or sick leave which may be used by employees who cannot work due to a crisis situation and who have insufficient appropriate paid leave to cover the absence needed for the crisis situation. An employee using leave from a crisis leave pool shall receive leave in sufficient quantity to ensure his wage replacement is 75% of the pay he would receive in a regularly scheduled work week. The policy must have the approval of the State Police Commission prior to implementation. At minimum, the policy must include the following conditions and elements:

1. The policy shall establish a cap on the amount of compensatory, annual or sick leave which may be donated by an individual employee. No cap shall exceed 240 hours per employee per calendar year.
2. The policy shall establish a reasonable balance of compensatory, annual or sick leave that donors are required to retain after the leave donation.
3. The policy shall establish a cap on the amount of leave which may be used by an individual employee. The cap shall not exceed 540 hours during a 12 month period.
4. The policy shall establish and clearly define eligibility criteria and the crisis situations which will be covered.
5. The policy shall define a procedure for administering the leave pool.
6. The policy shall establish a prohibition against the use of coercion or pressure to donate leave.
7. The department may establish other policy elements and conditions as deemed necessary. All additional elements and conditions shall be in compliance with State Police Commission Rules.
8. The leave pool may be either:
  - (a) a pool consisting of leave hours donated and used;
  - or
  - (b) a pool consisting of the dollar value of the leave donated and used.

T/S-50 Rule 11.1  
T/S-51 Rule 11.34  
T/S-63 Rule 11.29  
T/S-66 Chapter 11

02/16/2012  
07/19/2012  
10/03/2017  
02/18/2020

## CHAPTER 12

### DISCIPLINARY ACTIONS, REMOVALS AND RESIGNATIONS

#### 12.1 Appointing Authority.

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

#### 12.2 Cause; Disciplinary Actions.

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

#### 12.3 Restrictions on Suspensions Without Pay and Reductions in Pay.

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

#### 12.4 Administrative Leave Pending Investigation.

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

not feasible, or will reasonably significantly endanger the general health or safety or the efficiency of the public service, such shall not be required and, in that case, the employee shall merely be informed of the action. This notice and opportunity to verbally respond shall not substitute for the requirements of Rule 12.7.

- (c) Within fifteen (15) calendar days after the action provided for by this rule, the appointing authority shall provide the employee with such facts which support the action as are then available and which will not violate any confidence between the appointing authority and the investigating, arresting and/or prosecuting authority.
- (d) An action taken under this rule shall not exceed 400 regular duty working hours. The 400 regular duty working hours shall be exhausted prior to using enforced leave.
- (e) Upon completion of the investigation, the Director and the employee shall be notified in writing of the outcome of the investigation. Should the appointing authority find that cause does not exist for further action against the employee, the employee shall immediately be returned to duty. Should, however, the employee then be disciplined, and if not previously given, the employee shall then be given all notices required by Rule 12.7 and/or Rule 12.8.
- (f) Notwithstanding any other provision of these Rules, Administrative Leave Pending Investigation is not a disciplinary action and is only appealable under Rule 13.1(a) or (c).
- (g) The appointing authority may, within their discretion, require an employee placed on Administrative Leave under this rule to immediately surrender his commission card, badge, weapon (s) and all department issued equipment.

#### **12.5 Suspension or Administrative Leave Pending Criminal Proceedings.**

- (a) Upon the arrest or indictment of, or the issuance of a criminal summons to an employee, at the request of the appointing authority, the Commission may allow the suspension of the employee during the pendency of the criminal proceedings. This suspension may be for such duration and under such conditions as the Commission may allow.
- (b) In such cases, the request of the appointing authority shall contain all the details required by Rule 12.8 as are then available to the appointing authority and which will

not violate any confidence between the appointing authority and the investigating, arresting and/or prosecuting authority. Such request shall be furnished to the employee at or prior to the time it is furnished to the Commission.

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

#### **12.6 Non-disciplinary Removals.**

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

#### **12.7 Pre-dismissal, Removal or Discipline Procedure.**

- (a) A permanent employee may not be dismissed or removed or subjected to any discipline, other than a letter of reprimand until he has been given written notice of the proposed action and the reasons therefor, a description of the evidence supporting the proposed action and a reasonable opportunity to respond thereto.
- (b) In the case of a suspension pending the outcome of criminal proceedings, the notice provided to the employee under the provisions of Rule 12.5(b) shall satisfy the requirements of paragraph (a) of this rule.

### **12.8 Written Notice.**

- (a) Except as provided by Rule 12.5, a permanent employee who is disciplined shall be given prior written notice of the action which:

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

- (b) Written notice is considered given:

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

### **12.9 Letters of Counseling and/or Warning; Responses.**

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

### **12.10 Removal of Sick or Disabled Employees.**

- (a) Upon exhaustion of their sick leave and upon their request, an employee absent from duty because of a physical and/or mental disability or condition which prevents performance of the usual duties shall thereafter be placed on any type of paid leave then available to them and, upon the exhaustion of such paid leave, the employee shall then be placed on unpaid leave. The period of leave provided for by this rule shall be until the exhaustion of the employee's sick leave or the leave provided for by the Family Medical Leave Act (FMLA) or one(1) year, whichever is longer.
- (b) After such employee has been absent from duty because of such physical and/or mental disability or condition for the period provided for by Rule 12.10(a), and the employee has exhausted all of his or her sick leave or leave available under FMLA and the employee's job must be performed without further interruption, the appointing authority, may, for these reasons, remove such employee. Such removal shall not disqualify the former employee from non-competitive reemployment, as provided for by Rule 8.18.
- (c) Notice of the removal of an employee under the provisions of sub- section (b) shall be given pursuant to the provisions of Rule 12.8.
- (d) An employee removed under this rule shall have a right of appeal only based upon discrimination and/or the violation of the Article or these Rules.



## 12.11 Resignations.

- (a) Upon the termination of the services of a permanent or probationary employee by voluntary resignation, the appointing authority shall request that the employee submit a letter of resignation or complete other appropriate agency "exit" forms. Where it is not possible to secure the letter or form, the appointing authority shall prepare and maintain a written explanation of the reason(s) for the resignation, if known, and the reason that a letter of resignation or exit form was not obtained.
- (b) The resignation of an employee, submitted orally or in writing, shall become an accomplished fact upon:
  - 1. Its acceptance by the appointing authority or his or her designee, notwithstanding that it may include a prospective effective date; or
  - 2. The occurrence of the effective date and time specified by him in his statement of intention to resign.
- (c) When signed by the appointing authority or his or her designee, a personnel status change form which reports to the Director the resignation of an employee shall constitute one type of acceptance of the resignation.
- (d) An employee may not rescind or withdraw his resignation subsequent to:
  - 1. Its acceptance by the appointing authority unless the appointing authority agrees thereto;
  - 2. The effective date and time specified in the resignation; or
  - 3. The terminal date and hour specified in the personnel status change form mentioned in sub-section (c) hereof.
- (e) By mutual agreement between an employee and the appointing authority, an accepted resignation may be withdrawn and rescinded at any time prior to the effective date and time specified by the employee in the resignation.
- (f) When an employee resigns after receiving the notice required under Rule 12.7 that his dismissal has been proposed, the SF-1 form reporting the resignation shall so indicate. At the time the SF-1 form reporting the resignation is mailed or delivered to the Director, a copy

thereof shall be mailed to the employee at the last known address furnished by the employee to the Human Resources Office.

#### **12.12 Troopers Rights related to Administrative Investigations**

The statutory embodiment of the Law Enforcement Officer's Bill of Rights, as set forth at La. R.S. 40:2531, et seq, is considered an unconstitutional infringement on the Constitutional authority of this Commission and as such, it will not be applied to cases under Commission review. Members of the state police service, (hereinafter "Louisiana State Police Troopers") who are under administrative investigation with a view to possible disciplinary action as set forth in 12.2(b) of these Rules are afforded certain minimum rights by this Commission as set forth below. These rules do not apply to criminal investigations, fleet crash, shooting review or equal employment investigations. Criminal, fleet crash, shooting review or equal employment investigations, drug/alcohol screening, fitness for duty evaluations and requests for incident reports are not considered administrative investigations, nor are these rules considered applicable to those preliminary investigatory actions.

#### **Rule 12.13 Notice**

The Louisiana State Police Trooper being investigated shall be informed, within fourteen (14) calendar days of the start of the investigation (as set forth in Rule 12.18 below), that Trooper is under investigation, including the date(s) of the alleged offense and the substance of the factual allegations being made against the Trooper. Further, at the start of any interrogation, Trooper shall be informed of identity and authority of the person conducting such investigation, and at the commencement of any interrogation, such officer shall be informed as to the identity of all persons present during such interrogation. The Louisiana State Trooper shall, upon request, be provided a copy of any written complaint after his/her interrogation if a written complaint has been made against the Trooper. The Louisiana State Trooper shall be allowed to make notes.

#### **Rule 12.14 Conditions**

Any interrogation of Louisiana State Police Trooper in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of such Louisiana State Police Trooper.

**Rule 12.15 Recording of Interviews**

All interrogations of any Louisiana State Police Trooper in connection with the administrative investigation shall be recorded in full. The Louisiana State Police Trooper shall be provided a copy of the recording or transcript, if the recording is transcribed, of the recording of his/her statements upon his/her written request.

**Rule 12.16 Right to Counsel**

- (a) The Louisiana State Police Trooper being questioned, whether as a target or as a witness in an administrative investigation, shall have the right to be represented by counsel, a representative of his/her choosing.
- (b) The Louisiana State Police Trooper shall be granted up to fifteen (15) calendar days to secure such representation, during which time all questioning of the trooper shall be suspended.
- (c) The Louisiana State Police Trooper's representative or counsel shall not disrupt or interfere with the interview or interrogation. The Louisiana State Police Trooper's representative or counsel may not instruct the Trooper how to testify but may confer with the Trooper as necessary throughout the interrogation and make statements on the record.

**Rule 12.17 Statements inadmissible at criminal proceeding**

No statement made by the Louisiana State Police Trooper during the course of an administrative investigation shall be admissible in a criminal proceeding against him/her and he/she shall be so advised at the beginning of the interview or interrogation.

**Rule 12.18 Time within which to initiate investigation**

- (a) When a formal complaint is made against any Louisiana State Police Trooper, the Appointing Authority or his designee shall cause an investigation to be initiated within fourteen (14) calendar days of the date the complaint is made.
- (b) If no formal complaint is made against a Trooper but an incident justifies an investigation, the Appointing Authority or his designee shall cause an investigation to be initiated within fourteen (14) calendar days of

the date that Internal Affairs, the Troop/Section Commander or anyone above the commander in the chain of command, learns of the incident.

**Rule 12.19 Time to complete investigation and extensions of time**

- (a) Except as otherwise provided in this Rule, each investigation of a Louisiana State Police Trooper which is conducted under the provisions of this rule shall be completed within sixty days of the date the investigation was initiated.
- (b) The appointing authority or his designee may petition the State Police Commission, or its Executive Director, for an extension of the time within which to complete the investigation. The executive Director shall have the authority to grant up to one fifteen (15) calendar day extension without the necessity of a hearing but the Trooper shall be notified of the request for extension of time.
- (c) The State Police Commission shall have the authority to grant up to a sixty (60) day extension, in addition to that set forth in subparagraph (b) above, upon a showing of good cause at a hearing conducted by the Commission. The Commission shall set the matter for hearing and shall provide notice of the hearing to the Louisiana State Police Trooper who is under investigation. The Louisiana State Police Trooper who is under investigation shall have the right to attend the hearing and to present evidence and arguments against the extension. Any hearing conducted regarding this Rule may be conducted either by the full Commission or a referee and may be conducted in person or by telephone or other electronic means, as deemed necessary and appropriate by the Commission.
- (d) Nothing contained in this Paragraph shall be construed to prohibit the Louisiana State Police Trooper under investigation and the appointing authority from entering into a written agreement extending the investigation for up to an additional sixty (60) days.
- (e) The investigation shall be considered complete upon determination of the appointing authority to institute disciplinary action against the Louisiana State Trooper or a determination of an exonerated, unfounded or not-sustained complaint.

- (f) Written notice shall be given to the Trooper within seven (7) calendar days from the completion of the investigation, as described in (e) above, that the investigation is complete, the findings of the investigation (Sustained, Not Sustained, Exonerated or Unfounded), the proposed discipline and that the pre-deprivation notice required by Rule 12.8 shall be given within 45 calendar days.
- (g) Nothing in this paragraph shall limit an investigation of alleged criminal activity.
- (h) The investigation of criminal activity may suspend the sixty (60) day period for completing the administrative investigation.
- (i) If the Appointing Authority or his designee requires an extension of time within which to complete the investigation or if an extension of time is jointly requested, and the Trooper has been placed on leave pending investigation under Rule 12.4, the Trooper shall be continued on paid administrative leave pending investigation until the completion of the investigation if the Appointing Authority finds that continued leave is warranted under Rule 12.4.

**Rule 12.20 Penalty**

Any disciplinary action taken against the Louisiana State Trooper in violation of these Rules may be reduced, modified or reversed by the Commission, in accordance with Rule 13.20.

T/S - 21	07/21/1997
T/S - 42: Rule 12.12	07/16/2009
T/S - 55: Rules 12.12, 12.13-12.20	10/09/2014
T/S - 66: Rule 12.4	02/13/2020