

State Police Commission



Post Office Box 66555
Baton Rouge, La. 70896-6555
Phone (504) 925-7057
Fax (504) 925-7058

March 21, 1997

General Circular No. 72

Subject: Rule 1.20.05 and Chapter 12, State Police Commission Rules

Issue Date: March 21, 1997

Pursuant to the provisions of State Police Commission Rule 2.10(a), the State Police Commission will hold a public hearing on Monday, April 21, 1997, to adopt Rule 1.20.05 and amend Chapter 12 of the Rules. The meeting will begin at 9:00 a.m. in the Conference Room, Eleventh Floor, Wooddale Towers Building, 1885 Wooddale Boulevard in Baton Rouge, Louisiana. A copy of the proposed Chapter 12 is attached hereto.

Please review this proposal and furnish, in writing, by April 08, 1997, any comments you consider pertinent. If you would like to appear before the Commission and present your comments orally, you are invited to do so. You must notify Gilda Russ by April 08, 1997 of your intention to address the Commission, in order to be placed on the agenda.

Please post this circular and rule proposal prominently, so that all employees will receive notice of this public hearing. If any special accommodations are needed, please notify us prior to the meeting date.

Sincerely,

Debra L. Johnson

Debra L. Johnson
Director

Attachment

- 1.20.05 Moral Turpitude - An act or behavior that gravely violates the moral sentiment or accepted moral standards of the community. Examples of such conduct include, but are not limited to, dishonesty, fraud and theft.

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 or dismissed 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 12.4 and 12.5 or as ordered by the Commission or agreed to under Chapter 13 or Chapter 16, a suspension without pay may not exceed 520 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 Suspensions 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 dismissal or disciplinary action, and the employee's continued presence on the job or performance of his duties reasonably poses a significant hazard or danger to health or safety or the impairment of the efficiency of the public service, the employee may be verbally suspended with pay.
- (b) When an employee is suspended under the provisions of this rule, if feasible, the employee shall first be informed of the intended suspension and the reasons therefor and the employee shall be given an opportunity to respond verbally at that time. If such is not feasible, or reasonably will significantly endanger the health, safety or efficiency of the public service, such shall not be required and, in that case, the employee shall merely be informed of the suspension.

- (c) Within fifteen (15) calendar days after the suspension provided by this rule, the appointing authority shall provide the suspended employee with such facts that support the suspension as are then available and which will not violate any confidence between the appointing authority and the investigating, arresting and/or prosecuting authority.
- (d) A suspension under this rule shall not exceed thirty (30) calendar days without the prior approval of the Director. Upon sufficient reasons provided to her by the appointing authority, the Director may allow an extension of the suspension for an additional thirty (30) calendar days.
- (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 exist for further action against the employee, the employee shall immediately be returned to duty. Should, however, the employee then be dismissed, removed or otherwise disciplined, 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, an Administrative Suspension Pending Investigation is not a disciplinary action and may not be appealed to the Commission, except on the basis of discrimination or a violation of the Article or these Rules.

12.5 Suspensions Pending Criminal Proceedings

- (a) Upon the arrest of an employee and 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) Should the Commission allow a suspension pending the outcome of criminal proceedings with pay, such suspension 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), 7.8.9(c), 8.13(a), 8.15(d), 8.18(d) and (e), 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, removed, suspended or subjected to any disciplinary action, other than an Administrative Suspension Pending Investigation, 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 in Rules 12.4 (d) and 12.5 (b), a permanent employee who is dismissed, removed or subjected to any disciplinary action shall be given prior written notice 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 personnel 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) A permanent employee absent from duty because of a physical and/or mental disability or condition which prevents performance of their usual duties, shall, upon their request to the appointing authority, be placed on sick leave. Upon exhaustion of their sick leave, the employee 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 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 one (1) year, and the employee has exhausted all of his or her sick leave and the employee's job must be performed without further interruption, the appointing authority, shall, for these reasons, remove such employee and shall report such removal, and the reasons therefor, to the Director. 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 subsection (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 this or other State Police Commission 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 changed 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 his 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.