

State Police Commission



Post Office Box 66555
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September 20, 1996

General Circular No. 64

To: State Police Commission Members, Colonel William R. Whittington, Personnel, Legal, Retirement, Walter L. Smith, Floyd J. Falcon and State Police Command Staff

From: Debra L. Johnson

In Re: Revisions of the State Police Commission Rules

The State Police Commission will hold a public hearing on Monday, October 21, 1996, at 9:00 a.m. in the Conference Room, Eleventh Floor, Wooddale Towers Building, 1885 Wooddale Boulevard in Baton Rouge, Louisiana to consider repeal, adoption and amendment of the following Rules. Please review these proposals and furnish, in writing, by October 09, 1996, 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 October 09, 1996 of your intention to address the Commission, in order to be placed on the agenda.

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

Sincerely,

Debra L. Johnson

Debra L. Johnson
Director

8.16

(a) Repealed.

...

(d) Repealed.

(e) Temporary Duty Assignment (TDY).

1. When, in the discretion of the appointing authority, the services of an employee are temporarily needed in a position of the same, lower or higher class, an employee may be assigned to such temporary duty for a period not to exceed one hundred eighty (180) days.
2. The temporary duty assignment of an employee may be made for thirty (30) consecutive calendar days without the necessity of reporting such to or approval of such by the Director, and such shall not effect the employee's status or pay.
3. When a temporary duty assignment exceeds thirty (30) consecutive calendar days, the appointing authority shall, within five (5) business days thereafter, report such temporary duty assignment to the Director, which report shall state the position and class (rank) to which the employee has been temporarily assigned and describe the duties such employee is then performing in the temporary assignment.
4. After an employee has been temporarily assigned for thirty (30) consecutive calendar days to a position which is allocated to a higher class, his pay shall be increased retroactively to the beginning of the temporary assignment to the rate he could receive upon promotion to such position, provided:
 - a. Any such temporary increase shall not affect his eligibility for pay increases which he would have acquired in his regular position had he not been temporarily assigned; and
 - b. At the conclusion of the temporary assignment, his pay shall revert to his authorized rate of pay in his regular position.
5. The appointing authority shall immediately return a temporarily assigned employee to his regular position after he has been temporarily assigned for ninety (90) consecutive calendar days,

unless, prior thereto, the temporary assignment has been approved by the Director.

6. Should an employee whose temporary duty assignment to a position of a higher class exceed thirty (30) consecutive calendar days, and whose pay has not been properly adjusted, fail to report such in writing to the Director within twenty (20) calendar days thereafter, he shall not be eligible for any increased pay which he might otherwise be due or credit for time in grade as provided for by subsection 4 (above) and Rule 6.11.
7. Except with the prior approval of the Director, an employee may occupy a position other than his regular position only once within a calendar year.

CHAPTER 1

DEFINITIONS

- 1.3 **Annual Leave** - Leave with pay granted an employee for the purpose of rehabilitation, restoration and maintenance of work efficiency, or transaction of personal affairs.
- 1.4 **Appointing Authority** - The agency, department, board or commission, and the officers and employees thereof authorized by statute or by lawfully delegated authority to make appointments to and removals from positions in the State Police Service.
- 1.5 **Appointment** - The designation, in accordance with Chapter 8 of the SPC Rules, of an employee to a certain office and his acceptance thereof.
- 1.5.01 **Article or State Police Commission Article** - Article X, Part IV of the Constitution of the State of Louisiana of 1974.
- 1.5.1 **Bona Fide Student** - A person enrolled in an accredited high school,

PROPOSED RULES

college or university in the State, or a person enrolled in a state-operated vocational/technical school, who meets the criteria of such institution to be classified by that institution as a full-time regular student; or a person enrolled in an off-campus college work-study program in a proprietary institution of higher education as defined in Section 461(b) of the Higher Education Act of 1965, as amended. A bona fide student shall not lose such status because of vacations during the academic year or because of his failure to attend summer school.

- 1.8 **Classified Service** - Any person in the State Police Service, except those specifically placed in the Unclassified Service in accordance with these Rules by the Commission or exempt from the Classified Service by the Article.
- 1.9.01 **Commuting Area** - The geographic area in which employees are subject to competition for a layoff, which shall encompass only the parish of the abolished position(s) and all bordering parishes.
- 1.14.1 **Discrimination**- Consideration in the appointment, removal, discipline or any other action which adversely affects a probationary or permanent employee of any non-merit factor including, but not limited to, religious or political beliefs, gender, sexual orientation, race, personal animosity or favoritism or reprisal for actions lawfully taken by an employee.
- 1.18 **Job Appointment** - A temporary appointment of an employee for work of a temporary nature or to substitute for another employee. An employee serving in a third successive job appointment shall be considered to have acquired permanent status.
- 1.19 **Layoff**- The removal of an employee from a position because of lack of work or funds or for other non-disciplinary reasons not provided for in Rules 12.6 or 12.10.
- 1.20 **Leave Without Pay** - Leave or time off from work, other than a disciplinary suspension as provided for in Chapter 12, which is granted or ordered by the appointing authority and during which the employee receives no pay.
- 1.24.1 **Political Activity** - An effort or activity to support or oppose the election

of a candidate for political office or, other than party registration, effort or activity to support or oppose a particular party in an election or otherwise.

- 1.29 **Provisional Appointment** - A temporary, appointment of a non-permanent employee to a position in the absence of an adequate eligible list, until such time as the appointed employee demonstrates the required skill level to qualify for the job.
- 1.36 **Reinstatement** - The restoration to duty and pay status, under the conditions set forth by the restoring authority, of a former classified employee pursuant to an order by the Commission or a court.
- 1.38 **Resignation** - The voluntary termination, including retirement, by an employee of his employment in the Classified Service.
- 1.39.1 **Sick Leave** - Leave with pay requested by and granted to an employee who is suffering from an illness, disability or other physical condition which prevents him from performing his usual duties and responsibilities or who requires medical, dental, optical or psychological consultation or treatment.
- 1.40 **Suspension** - The enforced leave without pay of an employee for disciplinary purposes.

CHAPTER 2

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

- 2.9 Powers of the Commission
- (f) Renominated as (e)
 - (l) Renominated as (f)

(j) Renominated as (g)

(k) Renominated as (h)

(l) Renominated as (i)

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

(c), (d) and (e) removed

CHAPTER 3

DUTIES OF THE DIRECTOR OF PERSONNEL

3.1 Duties of the Director.

It shall be the duty of the Director of Personnel

(a) To serve as the executive and administrative head of the State Police Commission and direct and supervise all of the Commission's administrative and technical activities functions.

.....

(c) To establish and maintain a roster of all employees within the State Police Service, which roster shall indicate as to each employee the class title of the position held, the salary or pay, any change in class title, pay or status and any other necessary data.

(d) In accordance with the Article and/or Rules, to appoint and remove, or otherwise discipline, such employees of the Commission, and such experts and special assistants as may be necessary to effectively carry out the provisions of

the Article and Rules.

- (e) Consistent with the Article and the Rules, to formulate and prescribe procedures, and to publish them in a Personnel Manual; conduct examinations; maintain a list of eligibles; and certify qualified persons for appointment within the State Police Service.
- (f) To develop, in cooperation with the appointing authority of the Office of State Police and others, training, educational, and safety programs for all employees governed by the Article.
- (g) To make and publish annual reports regarding the work of the Commission, and such special or other reports to the Commission and the Governor as he considers desirable.
- (h) To perform any other acts or functions which are necessary or desirable to carry out the purposes of the Article or these Rules, or such acts or functions which he may be directed to perform by the Commission or its Chair.
.....
- (j) Subject to review by the Commission, to prepare and submit budget requests covering the estimated costs of administering the Commission.
.....
- (l) To make such investigations as may be necessary to enforce the provisions of the Article and Rules, and to determine the qualifications and suitability of applicants for employment in the State Police Service.

PROPOSED RULES

CHAPTER 8

CERTIFICATION AND APPOINTMENT

8.16

- (1) This consolidates SPC Rules 8.16 (a) and (d) with the prior Rule 8.16 (e) so as to allow a temporary duty assignment (TDY) to any position, whether to the same, lower or higher class.
- (2) This clarifies and states in the affirmative the appointing authority's unfettered authority to temporarily assign an employee from one position to another for a period of thirty (30) days.
- (3) This adds the requirement that the appointing authority report all temporary duty assignments to the Director within five (5) business days after the a TDY exceeds thirty (30) days.
- (4) This states in the affirmative the requirement contained in SPC Rule 6.11 of retroactively paying an employee temporarily assigned to a position in a higher class at the rate he could have received had he been promoted to such higher class.
- (5) This adds the requirement of approval by the Director of a TDY which exceeds ninety (90) days.
- (6) This adds the provision making an employee ineligible for increased pay or credit for time in grade, unless the employee reports to the Director that his TDY has exceeded thirty (30) days within five (5) business days thereafter. This will prevent an employee of taking advantage of a TDY which he knows violates the SPC rules.
- (7) This adds the provision prohibiting more than one TDY of the same employee withing the same year. This prevents multiple TDYs closely related in time within a single year.

CHAPTER 1

DEFINITIONS

- 1.3 This merely renumbers this rule.
- 1.4 This adds "removals", which is in accordance with court rulings, as well as changes "State Service" to "State Police Service".
- 1.5 This adds this definition in accordance with court rulings and a reference to Chapter 8.
- 1.5.01 This rewords and clarifies the rule and corrects the reference to the enabling article.
- 1.5.1 This rewords and clarifies this rule.
- 1.8 This rewords and clarifies this rule and corrects the designation to the State Police Service.
- 1.9.01 This rewords and clarifies this rule.
- 1.14.1 This rewords and clarifies this rule and adds the requirement that there be an adverse effect to the employee, as well as the non-merit factors of sexual orientation, personal animosity or favoritism or reprisal for actions lawfully taken by an employee.
- 1.18 This adds the provision that an employee serving in a third successive job appointment shall be considered to have acquired permanent status, which is consistent with prior court rulings.
- 1.19 This removes the word "cause" which confuses the rule, and adds a reference to the reasons for removal provided for by Rules 12.6 or 12.10.
- 1.20 This changes the title of and rewords and clarifies the rule, as well as removing investigatory suspensions and adds a reference to Chapter 12.
- 1.24.1 This adds "activities" as well as the word "otherwise" with regard to

EXPLANATION OF PROPOSED RULES

efforts or activities concerning political parties so as to clarify the prohibition.

- 1.29 This adds the words "non-permanent" to clarify the rule.
- 1.36 This adds "under the conditions set forth by the restoring authority" which clarifies the rule. It also removes the word "appellate", as a reinstatement might be ordered by a district court.
- 1.38 This adds retirement as a means of resignation so as to clarify the rule.
- 1.39.1 This adds the requirement that sick leave be requested by the employee, which is in accordance with prior court rulings. It also adds "other physical condition" so as to include such things as the normal effects of pregnancy, which may not be considered an illness or disability. It also adds an allowance for psychological consultation or treatment.
- 1.40 This rewords and clarifies the rule.

CHAPTER 3

DUTIES OF THE DIRECTOR

- 3.1 Duties of the Director.
 - (a) Rewords and clarifies this rule.
 - (c) Rewords and clarifies this rule.
 - (d) Rewords and clarifies this rule.
 - (e) Rewords and clarifies this rule and changes "State Personnel Manual" to "Personnel Manual".
 - (f) Rewords and clarifies this rule with regard to the appointing authority of the Office of State Police.

EXPLANATION OF PROPOSED RULES

- (g) Rewords and clarifies this rule.
- (h) Rewords and clarifies this rule.
- (j) Rewords and clarifies this rule.
- (l) Rewords and clarifies this rule.

EXPLANATION OF PROPOSED RULES



LOUISIANA STATE TROOPERS ASSOCIATION
MEMBER NATIONAL TROOPERS COALITION



WILLIAM F. SPENCER
EXECUTIVE DIRECTOR

BAXTER W. WELCH
PRESIDENT

KERMIT W. SMITH, JR.
TREASURER

September 30, 1996

Ms. Debra L. Johnson
State Police Commission
P.O. Box 66555
Baton Rouge, LA 70896-6555

Dear Ms. Johnson:

I would appreciate your placing Mr. Walter L. Smith, III, Master Trooper Baxter Welch and me on the State Police Commission agenda for the October 21, 1996 meeting.

We will appear, along with the State Police Administration to voice opposition to the proposed rule revision as stated in General Circular #64.

Sincerely,

William F. Spencer

WFS:tbf

c: Captain Joey Booth
Commission Members
LSTA Board Members

RECEIVED

OCT 02 1996
State Police Commission



Department of Public Safety and Corrections
Public Safety Services

M. J. "MIKE" FOSTER, JR.
GOVERNOR

W. R. "RUT" WHITTINGTON, COLONEL
SUPERINTENDENT

October 7, 1996
4007/217/BJW/0518
HQ-1-05C2

Ms. Debra Johnson
Executive Director
State Police Commission
P.O. Box 66555
Baton Rouge, La. 70896-6555

Dear Ms. Johnson:

Please accept this as notice that Captain Joseph Booth and members of his staff will be appearing on my behalf at the regularly scheduled Commission meeting scheduled for October 21, 1996 to discuss proposed State Police Commission Rules changes outlined in General Circular No. 64.

Sincerely,

Colonel W. R. "Rut" Whittington
Superintendent

RECEIVED

OCT - 7 1996

State Police Commission

COURTESY LOYALTY SERVICE

OFFICE OF STATE POLICE, P.O. BOX 66614, BATON ROUGE, LOUISIANA 70896-6614

PROPOSED RULE CHANGES

1. Retain present rule 8.16 (a) regarding Reassignment. This is necessary in order to reassign an officer from the Technical Support Officer, a SPS 19, a S/P polygraphist, a SPS 19, or a Lieutenant, a SPS 19.
2. Amend present rule 8.16 (d) 1 by inserting the word "higher" between "a" and "position" on line 3. The amended rule would read in part . . . "the services of an employee are temporarily needed in a higher position within the department other than the position to which he/she is regularly assigned."
3. Amend present rule 8.16 (d) 1 by deleting everything after the first sentence and inserting "When the detail exceeds thirty (30) calendar days, the Appointing Authority shall, within five (5) business days thereafter, report such detail to the Director in writing. This notification shall state the position and class to which the employee has been temporarily assigned and briefly describe the duties such employee is then performing in the detail as well as the anticipated duration of the detail."
4. Retain present rule 8.16 (d) 2 regarding minimum qualifications.
5. Amend present rule 8.16 (e) 1 by inserting the words "or lower" between "same" at the end of line three and "class" at the beginning of line four. The amended rule would read in part ". . . the services of an employee are temporarily needed in a position within the same or lower class, an employee may be assigned . . ."
6. Amend present rule 8.16 (e) 2 by re-designating it as 8.16 (e) 3. Insert as 8.16 (e) 2 the following: "When a temporary duty assignment exceeds thirty (30) calendar days, the Appointing Authority shall, within five (5) business days thereafter, report such temporary duty assignment to the Director in writing. The notification shall briefly describe the assigned temporary duties to be performed as well as the anticipated duration of the detail."

COMMENTS

The repeal of rule 8.16 (a) would be problematic since it prohibits the reassignment of personnel from one position in one class to another position in another class. For example, the Technical Support Officer, a trooper, is a GS-19, as is a Lieutenant. A similarly effected position includes polygraphists.

The repeal of rule 8.16 (d) is also problematic since it eliminates management's tool of the Detail to Special Duty as well as the requirement that anyone so detailed meet the minimum qualifications for the position detailed to.

Problems with the amendment and re-enactment of rule 8.16 (e) include a conflict between the provisions of sub-section 1, which allow for TDYs of up to 180 days, and the provisions of sub-section 5, which requires the appointing authority to terminate a TDY after 90 days if the TDY is not approved by the Director.

Sub-section 6 of rule 8.16 (d) places an onerous burden on the employee to report a TDY to the Director when the appointing authority fails to do so. This potentially creates an adversarial relationship between the employee and his employer. It potentially punishes the employee for the Department's failure since the employee can not turn to the Commission for redress.

Sub-section 7 of rule 8.16 (d) limits the flexibility of the appointing authority in assigning personnel as he sees fit since it restricts temporary assignments to one per calender year.

UCT-10-1996 14130 FROM LASIP

TO

97671559 P.01

State Police Commission



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Phone (504) 925-7057
Fax (504) 925-7058

October 10, 1996

MEMORANDUM

To: Operational Development Section and Walter L. Smith, III

From: Debra L. Johnson

In Re: State Police Commission Rule 8.16

Attached please find a revision of the rule proposal for State Police Commission Rule 8.16. I would appreciate you letting me know your thoughts on this revision no later than noon on Tuesday, October 15, 1996.

15

Debra - 10/14/96

Proposed rule revision ok for LSTA

*Mike
Bill Jones*