

State Police Commission



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May 17, 1996

General Circular No. 58

To: State Police Commission Members, Colonel William R. Whittington, Personnel, Legal, Retirement, LSTA, Walter Smith, Floyd Falcon and LSTA Affiliate Presidents

In Re: Amendment of Chapters 1 and 12 of the State Police Commission Rules

The State Police Commission will hold a public hearing on Monday, June 17, 1996, at 9:00 a.m. in the Conference Room, Eleventh Floor, Wooddale Towers Building, 1885 Woodgale Boulevard in Baton Rouge, Louisiana to consider amendment of Chapters 1 and 12 of the State Police Commission Rules. The amendments are attached hereto.

Please review this proposal and furnish, in writing, by June 07, 1996, any comments which 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 June 07, 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

Attachments

CHAPTER 1

DEFINITIONS

- 1.5.2 a. **Cause** - Conduct which impairs the efficiency of the public service being rendered and which bears a real and substantial relation to the efficient operation of that public service.

CHAPTER 12

DISCIPLINARY ACTIONS, REMOVALS AND RESIGNATIONS

12.1 Appointing Authority

A disciplinary action and other action authorized by this chapter may be taken only by the appointing authority.

12.2 Cause; Disciplinary Actions

- (a) A permanent employee may only be disciplined or removed for cause as defined in Rule 1.5.2 a.
- (b) Disciplinary actions include only the following: removals, 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 90 consecutive calendar days.
- (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 Emergency and Investigatory Suspensions

- (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, 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) 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.
- (d) Every employee suspended under this rule shall, within fifteen (15) calendar days following the verbal suspension, be furnished with written reasons therefor, which shall contain all the details required by Rule 12 8 as

is then available to the appointing authority.

- (e) Upon completion of the investigation, the Director and the employee shall be notified in writing of the outcome of the investigation. Should the employee then be suspended without pay, the notification required hereby shall contain all the details required by Rule 12.8.
- (f) Notwithstanding any other provision of these Rules, an emergency or investigatory suspension with pay 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 is 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 allowing 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) Notwithstanding any other provision of these Rules, a suspension pending criminal proceedings 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.

12.6 Non-disciplinary Removals

- (a) An employee may be removed under the following circumstances:
 - 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; and
 - 2. When the cause for a dismissal is not the employee's fault 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 disciplinary removals, and he or she shall have the same right to appeal such as if it were a disciplinary removal.

- (c) When an employee is removed under this rule, the appointing authority shall designate the dismissal as non-disciplinary, and the adverse consequence of Rules 6.5(c), 7.5(a), 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-removal/Pre-discipline Procedure

A permanent employee may not be removed or subjected to any disciplinary action, other than an emergency or investigatory suspension, 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

12.8 Written Notice

- (a) Except as provided in Rules 12.4 (d) and 12.5 (b), a permanent employee who is removed or subjected to any disciplinary action shall be given 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.

- (d) 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 and shall not be included in any personnel 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 Special 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 in an appropriate leave status for a period not to exceed one (1) year.

In the event no other leave status is available to the employee, he or she may be placed on Leave Without Pay during the one (1) year period referred to in the preceding paragraph.

- (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, the appointing authority shall, for this reason, 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.

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), 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 his appointing authority, 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, 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:

1. subsequent to its acceptance by the appointing authority unless the appointing authority agrees thereto;
 2. subsequent to the effective date and time specified in the resignation; or
 3. subsequent to 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, after receiving notice that his dismissal has been proposed, an employee resigns to avoid dismissal, the standard Form 1 reporting the resignation shall so indicate and a copy thereof shall be furnished to the employee.