

State Police Commission



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January 3, 2002

Transmittal Sheet No. 32

Subject: Repeal and re-enactment of State Police Commission Rule 8.8

Effective Date: December 20, 2001

At its meeting on December 20, 2001, on motion duly made and seconded, by unanimous vote of the members present, the State Police Commission voted to repeal and re-enact the above-referenced Rule. Attached is a complete copy of Chapter 8 for inclusion in your rules.

Sincerely,

Debra L. Johnson

Debra L. Johnson
Director

Attachment

CHAPTER 8

CERTIFICATION AND APPOINTMENT

8.1 Methods of Filling Vacancies.

Vacancies in the State Police Service may be filled by original appointment or by promotion, reassignment, demotion, transfer, reinstatement following an appeal, restoration to duty following military service, or noncompetitive reemployment.

8.2 When proposing to fill a vacancy by original appointment, the appointing authority shall request the Director to certify the names of persons eligible for appointment, furnishing such information about the vacancy as may be necessary for the Director to decide those persons eligible for appointment.

8.3 Anticipation of Need.

As far as practicable, each vacancy shall be anticipated sufficiently in advance to permit the Director to issue an announcement, if necessary, and to establish a list of eligibles.

8.4 Certification of Eligibles.

- (a) The Director, in issuing certificates, shall certify to the appointing authority the names of the highest ranking eligibles from the appropriate list for the class of the vacant position.
- (b) The Director may establish a range of certifiable scores for any job class, and may permit competitive employment of applicants who have attained scores within that range.

8.5 Selective Certification.

- (a) When requested and adequately justified by the appointing authority, the Director may selectively certify from an eligible list the names of eligibles who possess particular qualification.
- (b) In specific instances, and pursuant to and in conformity with an order of the State Police Commission, a court, or other commission, or agency of competent jurisdiction, the Director may make, or permit the appointing authority to make, selective certification.

8.6 Determination of Availability for Appointment.

- (a) The appointing authority or its agent shall determine the availability of the eligibles certified for appointment and shall submit to the Director written

evidence of unavailability or failure to reply, unless a selection is made from one of the eligibles within the five highest final grade groups, or the certifiable band of scores, whichever is applicable.

- (b) If a certified eligible indicates unavailability for appointment, or fails to reply to an availability inquiry within ten (10) calendar days after mailing of notification, the appointing authority may consider that individual as having been removed from the certificate.

8.7 Appointment of Eligibles from Certificates.

- (a) Except as provided in subsection (b) hereof, appointment from certificates must be made from one of the eligibles within the five highest final grade groups, or certifiable band of scores, except in making appointments from a department preferred re-employment list, in which case the highest ranking eligible shall be appointed. All candidates having the same final grade will be considered as "a grade group." When processing a certificate of eligibles, if five or more candidates whose names are among the five highest final grade groups express availability for a vacancy, appointment will be restricted to such candidates. If one or more of the five top grade groups is eliminated in accord with the Rules, the appointing authority may proceed to the next final grade group, or groups, until there are at least five grade groups from which to choose. Certificates showing action taken thereon must be returned by the expiration date specified on the certificate, unless the Director extends the time. In each case of appointment, such appointment shall become effective on the day the appointee begins duty.
- (b) If a certificate contains the name of an eligible who has previously been subjected to removal or dismissal by the appointing authority, or who has resigned to escape possible disciplinary action, they may be removed from consideration, and if there are fewer than five final grade groups remaining, the appointing authority may proceed to the next group, or groups, until there are at least five final grade groups.

8.8 Probationary Appointment.

When a vacancy in a position is filled by an original appointment of an eligible, such appointee shall serve a probationary period. The probationary period shall be from the date of appointment to the State Police service, and extending through twelve (12) months from the date of graduation from the State Police Training Academy. For employees who are non-competitively re-employed, such probationary period shall be twelve (12) months from the date of re-employment.

8.9 Job Appointment.

- (a) Temporary appointments for specified periods not exceeding twelve (12) months may be made when an employee is needed for temporary work or to substitute for a permanent or probationary employee.
- (b) The Director may authorize the appointment of any person who possesses the minimum qualifications stated in the class specifications.

8.10 (a) Reassignment.

The Appointing Authority may, with the approval of the Director, reassign any probationary or permanent employee from one position in a class to another position in a different class for which the employee is qualified and which has the same hiring rate of pay.

(b) Change in Hours of Work.

The appointing authority may, in the best interest of the State Police program, change the hours of work of any employee, if no change in the employee's class of position is affected.

(c) Change in Duty Station.

1. The appointing authority may change the duty station of a permanent or probationary employee from one geographical area to another with or without the consent of the employee for a period not to exceed ninety (90) days, provided that the employer shall pay or provide all related expenses to the employee in accordance with State Travel Regulations.
2. The appointing authority may permanently change the duty station of a permanent employee from one geographical area to another with the consent of the employee, in which case the employer may, at the employer's option, pay all related moving and housing expenses. Such change shall be reported to the Director.
3. The appointing authority may permanently change the duty station of a permanent or probationary employee from one geographical area to another without the consent of the employee, provided that the change is necessary to accomplish the department's mission, is, before such change, approved by the Commission at a public hearing, and provided that the employer shall pay all related moving and housing expenses.

(d) Detail to Special Duty.

1. When, in the discretion of the appointing authority, the services of an employee are temporarily needed in a higher position within the department, other than the position to which the employee is regularly assigned, the employee may be detailed to perform the duties of such position for a period not to exceed thirty (30) calendar days without change in title, status or pay.
2. If the detail exceeds thirty (30) calendar days, within five (5) business days after that, the employee shall be officially detailed into the position, with the approval of the Director. The notice of the official detail 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, and the anticipated duration of the detail.
3. When an employee is officially detailed to special duty, the employee shall be retroactively paid at the rate they could receive upon promotion to such position, all in accordance with Rule 6.11.
4. An employee detailed into a position must meet the minimum qualifications for the detailed job.

(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 within the same or lower class, an employee may be assigned to such temporary duty for a period not to exceed one hundred eighty (180) days. Such assignment to temporary duty shall not affect the employee's title, status or pay.
2. When a temporary duty assignment exceeds thirty (30) calendar days, the appointing authority shall, within five (5) business days after that, report such temporary duty assignment to the Director in writing. The notification shall briefly describe the assigned temporary duties to be performed, and the anticipated duration of the temporary assignment.
3. When the assignment to temporary duty requires a change in the employee's duty station from one geographical area to another, the appointing authority shall pay all related expenses of such temporary assignment, in accordance with State Travel Regulations.

8.11 Noncompetitive Re-employment Based on Prior State Service.

- (a) Subject to the provision of Subsection (d) hereof and with the approval of the Director, a former permanent employee who has been separated from the classified State Police Service may, within five (5) years from separation, be noncompetitively re-employed in any job for which the former employee is qualified and which has the same or lower entrance salary as the current hiring rate for the job in which the employee had permanent status. Further, if the job in which an employee or former employee held permanent status undergoes a change in title, other than an upward reallocation of the position after the employee separated from it, or undergoes a change in minimum qualification requirements, the former employee shall not lose this re-employment eligibility for such position or lower position in the same job series, if such exists, except where the qualification lacking is one required by law or under a recognized accreditation program. In this case eligibility remains, even if the entrance pay has moved upward. Further, the employee shall be eligible to be re-employed in any other job at the same or lower current entrance pay as the job to which their former position changed in title, provided the former employee meets the minimum qualification requirements.
- (b) No former employee whose last separation from the classified service was by removal due to delinquency, misconduct, unsatisfactory performance or by resignation to escape possible disciplinary action shall be eligible for noncompetitive re-employment under the provisions of this Rule; nor shall any person acquire eligibility for noncompetitive re-employment through service in a position from which they were separated or demoted for delinquency, misconduct or unsatisfactory performance.

8.12 Restoration of Duty Upon Return from Military Service.

Any employee, who subsequent to January 1, 1991 has left or leaves a probationary or permanent classified position, for active duty in the armed forces of the United States for an indefinite period of involuntary service, or not more than six years of voluntary service, and who upon separation from the armed forces of the United States, by honorable discharge or under honorable conditions, applies for re-employment within ninety (90) days following discharge or within ninety (90) days after release from hospitalization continuing after discharge for a period of not more than one year shall:

- (a) If still qualified to perform the duties of such position, be restored by the appointing authority to such position or to a position of like seniority, status and pay; or

- (b) If not qualified to perform the duties of such position because of disability sustained during such service, but qualified to perform duties of any other position in the department be restored to such other position, as will provide the employee like seniority, status or pay or other nearest approximation thereof, consistent with the circumstances in the employee's case.

8.13 Promotion.

- (a) Subject to the provisions of Rules 8.7, each promotion shall be made by appointing one of the eligibles within the five highest final grade groups on a promotional certificate issued by the Director following competitive examination. If there are five (5) or fewer qualified applicants for a vacancy, the Director may declare a noncompetitive situation and forego testing for that vacancy. In such case, the applicants shall be rated "Eligible."
- (b) The Director shall issue a promotional certificate from a register of eligibles established following a competitive promotional examination. Candidates shall be certified in grade order.
- (c) The Director shall not include in any promotional certification, nor authorize the non-competitive promotion, of the name of an employee having a current unacceptable service rating (i.e., "needs improvement" or "unsatisfactory").

8.14 Demotion.

A permanent or probationary employee may be demoted for cause, or at the employee's request, to any position for which the employee possesses the qualifications specified in the appropriate standards of requirements for such position.

8.15 Fingerprinting of Employees.

All applicants for the State Police classified service shall be required to provide a classifiable set of fingerprints.

8.16 Substance Abuse Testing.

The Office of State Police may establish and implement a policy of substance abuse testing of candidates and employees, pursuant to State law.

8.17 Cancellation of Eligibility for Appointment.

- (a) The Director shall cancel the employment eligibility of any applicants, or of any probational or temporary employees, following certification or employment if:
 - 1. Their employment in the State Police Service would be prohibited by law; or
 - 2. They are prohibited from employment for any of the reasons listed in Rule 7.5(a).
- (b) An applicant whose employment eligibility has been canceled under this Rule shall be notified promptly by the Director.
- (c) The Director shall notify the employee and the appointing authority immediately when an employee's eligibility has been canceled in accordance with this Rule, and the appointing authority shall terminate the employee from State Police within five (5) days of receipt of such notice.