

Chapter 2: State Civil Service Commission Powers

Overview

Article X of the Louisiana State Constitution establishes the State Civil Service Commission and gives it broad rulemaking authority to regulate the terms of employment of classified state employees. The state constitution specifically gives the Civil Service Rules the full force and effect of law, and empowers the Commission to enforce them.

Chapter 2 lists the main purpose and powers of the Commission. This chapter defines the procedures the Commission follows to conduct meetings or hearings and the procedures used to adopt or change the rules. This chapter also defines the actions that may be taken against someone who acts in contempt of the Commission.

The primary responsibility of the Commission is “to represent the public interest in the improvement of personnel administration in the departments...” The Commission has the power to adopt, interpret and to enforce its rules. The state constitution authorizes the Commission to conduct hearings regarding alleged rule violations and to order corrective actions, including withholding pay. The Commission may also fine someone who acts in contempt of the Commission.

In conducting meetings and hearings, the Commission follows the state’s open meetings laws. Although not bound by the Louisiana Administrative Code, the Commission uses very similar procedures when adopting rules, in order to give the same level of public openness to its actions.

HR Impact

The state constitution gives the Civil Service Rules the full force and effect of law. By law, the rules govern the terms of employment for all classified employees: how they are recruited, hired, compensated, trained, evaluated, etc. HR professionals are responsible for advising their agency’s managers and employees on the requirements of the rules and helping them comply with them. Each personnel action must be approved by the appointing authority and be certified as compliant with Civil Service Rules. In many agencies, this certification responsibility is assigned to the HR Officer.

The rules give agencies a wide amount of authority and flexibility to manage most routine personnel matters without seeking specific approval from the Commission. But items that require specific Commission authorization are acted on by the Commission at its monthly public hearings.

If an agency takes an action that violates the rules or is unauthorized, the Commission has the power to order its reversal, including stopping payment to an employee. Any agency official who ignores a Commission order to correct an employee’s pay may be held personally liable for the sum involved and as well as being fined for contempt.

Rule-By-Rule Review

Rule 2.1 Election of the Chairman and Vice-Chairman

At their first meeting each year, the Commissioners elect a Chairman and Vice-Chairman.

Rule 2.2 Meeting Schedule

Commission meetings may be scheduled by the Commission as a whole, by the Commission Chairman or by the Director. All Commissioners will be notified of any scheduled meeting.

NOTE: Each year's Commission meeting dates are generally planned and published prior to January. Commission meeting dates are published via General Circular and listed on the [State Civil Service website](#).

Rule 2.3 Rules of Order

The Commission has the authority to decide what procedures or protocol will be used to conduct its meetings.

Rule 2.4 Meetings Open to the Public

Commission meetings and hearings are open to the public and may be attended by anyone. The only exception to this is when the Commission votes to hold an "executive session." If at least two-thirds of the Commissioners present vote "yes" an executive session that is closed to the public may be held.

An executive session may only be held for one of these reasons:

- To discuss an individual's character, professional competence, physical or mental health, unless the individual requests that the discussion be held in public;
- To discuss strategy or negotiations of collective bargaining agreements with a union;
- To discuss prospective litigation after a formal written demand;
- To discuss litigation when a public discussion would adversely affect the Commission's bargaining or litigating position;
- To discuss matters involving security personnel, plans or devices;
- To discuss investigating an allegation of misconduct;
- When an emergency, such as a natural disaster, precludes an open meeting;
- To discuss any matter designated as confidential elsewhere in the rules, or by some other state or federal law or regulation; or
- To discuss an appeal filed in accordance with the rules. ([Chapter 13](#) governs appeals.)

When the Commission discusses an appeal in executive session, they may vote in that closed meeting to take an action regarding that appeal. A vote on any other matter must be taken in a public meeting.

Rule 2.5 Notice of Meetings

Notice of a Commission meeting must be published at least 24 hours before the meeting. The notice must include the date, time and place of the meeting and the agenda. The notice must be posted at the Director's office and provided to the news media. Less than 24-hour prior notice of a Commission meeting can be given in case of an extraordinary emergency.

During a meeting, the Commission may add additional items to the agenda as long as at least two-thirds of the Commissioners present vote to do so.

NOTE: SCS sets deadlines each month for items to be included on a Commission meeting agenda. Items submitted after the deadline for a meeting's regular agenda may be included on a supplemental agenda or added on the floor by a vote of the Commission. Agendas are published on the [SCS website](#).

Rule 2.6 Quorum and Voting

A quorum of at least four Commissioners must be present to effect a vote on any item. Only a simple majority of the Commissioners voting is needed to approve or adopt an agenda item. If a tie occurs, the item may be deferred to a later meeting, or a transcript of the record of the item can be sent to any absent Commissioner(s) to vote on the matter.

Rule 2.7 Secretary to the Commission

The Director keeps the Commission meeting minutes and records of its actions.

Rule 2.8 Minutes of the Proceedings

The Director presents the minutes of each meeting to the Commission for their approval.

NOTE: Records of the actions taken on agenda items at each Commission meeting are posted and archived on the [SCS website](#).

Rule 2.9 Powers of the Commission

[Article X](#) of the state constitution gives the Commission its powers, describing them in some detail. Rule 2.9 summarizes the key elements of the Commission's duty and authority.

(a) The Commission's purpose is to represent the public interest. This means that the Commission's focus must be on serving the best interests of the citizens of state as a whole, rather than on the interests of an individual employee or agency.

(b) The Commission is the appointing authority for the State Civil Service Director.

(c) The Commission has the authority to conduct investigations of alleged violations of its rules or of Article X of the state constitution. The Commission may hold a public hearing to consider charges of

rule violations, and the Commission may issue subpoenas or other orders as needed to conduct such investigations or public hearings.

(d) The Commission has the authority to enact rules.

(e) Repealed.

(f) The Commission has the authority to hear appeals from individuals who claim that the rights granted to them under the rules or Article X of the state constitution have been violated. The Commission has the authority to issue orders based on their findings in such appeals.

(g) Repealed.

(h) The Commission has the obligation to review contracts for personal services that will displace classified employees to determine if they are being let for reasons of economy and efficiency and not for politically motivated reasons.

NOTE: Information on the contract review process may be found in [Job Aids & Resources: Contract Review – Agency Request Form](#) and [Job Aids & Resources: Contract Review – Agency Request Form Instructions](#).

(i) The Commission is empowered to perform any acts that may be required of it either by the constitution or by state statutes.

(j) The Commission may take whatever actions it deems necessary to maintain order and control during its meetings or hearings.

(k) The Commission may order an appointing authority to stop any pay that is found to be in violation of the rules. Anyone who violates such an order to stop pay may be held personally liable for the amount of the illegal payment.

(l) The Commission has legal standing to enforce its rules through the courts, if necessary.

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

This rule describes the procedures the Commission follows when adopting or changing rules. Rule proposals must be published at least 25 days before action is taken on them, so that any interested parties may comment on them. Rule proposals are also sent to the legislative committees that oversee governmental affairs as well as the legislative fiscal office, to ensure that they have the opportunity to comment during the 25-day period.

After the comment period has passed, the Commission may take formal action on the rule proposal at a public meeting. If the Commission votes to adopt or change a rule, they also will determine an effective date. However, if a rule adopted by the Commission will affect wages or hours, it must also

then be approved by the Governor before it can become effective. (This is a constitutional requirement.)

In an emergency situation, the Commission can adopt a rule change without the 25-day comment period. Emergency rules must be published in the month following their adoption and cannot be effective for more than 120 days. For example, in response to a hurricane or other disaster, the Commission might adopt an emergency rule suspending certain deadlines.

Rule 2.11 Contempt of the Commission

This rule defines “contempt” as any action that interferes with the Commission’s proceedings or disregards the dignity and authority of the Commission. This definition of contempt also applies to actions during appeal hearings conducted by referees ([Rule 13.20](#)) on behalf of the Commission. Some examples of acts considered to be contempt include:

- Failure to comply with a summons.
- Refusing to take an oath as a witness.
- Refusing to answer a non-incriminating question.
- Use of discourteous language before the Commission or referee.
- Failure to comply with an order or directive of the Commission.

Rule 2.12 Procedure for Punishing for Contempt

If someone commits contempt in the presence of the Commission or a referee, he may be punished by the Commission or the referee immediately.

If someone commits contempt, but not in the presence of the Commission or referee, that person may be given 48-hours (or more) notice to appear before the Commission or referee to be tried for that contempt. If the person fails to appear, the Commission or referee may seek to have the person apprehended by law enforcement and brought to the hearing, or conduct the hearing in his absence.

Rule 2.13 Penalties for Contempt

The penalty for contempt of the Commission or referee is a fine of up to \$500.

Rule 2.14 Commanding Immediate Presence

If a subpoenaed individual fails to appear at any hearing, the Commission or referee may seek to have him apprehended by law enforcement and brought to the hearing, provided that the subpoena was properly served.

Procedures

- [Commission Agenda Item – Request](#)