

Chapter 16: Investigations

Overview

The Commission has the legal power and authority to investigate alleged violations of its Rules and/or Article X of the state constitution. See [Rule 2.9\(c\)](#) under Powers of the Commission. In Chapter 16, the Commission outlines the procedures that are followed when anyone asks for the investigation of a suspected Rule violation.

Investigations are considered confidential unless and until the Commission finds enough evidence to warrant a public hearing on the matter. If such a public hearing is held, it is conducted in a similar manner to an Appeals hearing (See [Chapter 13](#)).

If, after a public hearing, the Commission finds that a violation did occur, it can order corrective action, including reversing any action, removing or restoring pay, etc. However, if the Commission finds that a complainant has made allegations with no reasonable basis, they may require him/her to pay up to \$1,500 of each the accused person's attorneys' fees.

HR Impact

Investigations play a vital role in ensuring that Civil Service Rules are upheld. If an employee suspects a rule has been violated, agencies should refer the employee to complete the [Request for Investigation Form](#) found on the Civil Service website. The Accountability Division will review the request to decide if an investigation is warranted and further investigation is needed to determine if a rule has been violated.

State employees are required by Civil Service Rule to cooperate fully in all investigative procedures and to answer truthfully all questions asked by State Civil Service staff.

Rule-By-Rule Review

Rule 16.1 Purpose of Chapter; Penalties; Orders

(a) The purpose of this Chapter is to establish the Commission's authority to investigate alleged violations of the Civil Service Article and/or Rules.

(b) This rule establishes the Commission's authority to order disciplinary action against the classified employee if he is found to be in violation of the Civil Service Article and/or Rules.

(c) This rule establishes the Commission's authority to issue any order relating to any person found to be in violation of the Civil Service Article and/or Rules.

Rule 16.2 Request for Investigation

(a) This rule provides authority for any person to request an investigation by the Director if he believes that a Civil Service Article and/or Rule has been violated.

(b) This rule defines the requirements for submitting a request for investigation. The request must be written and cannot be combined with any other issue. The request must clearly be identified as a request for investigation providing the name, address and contact information of the person making the request. The request must also describe in detail the conduct to be investigated.

(c) This rule clearly states that requests for investigations are NOT public records and are confidential at this stage of an investigation.

NOTE: It is critical for HR professionals to ensure employees are aware of this rule and are able to exercise their rights if needed. State Civil Service and HR professionals often receive inquiries from employees who want to anonymously request an investigation or provide information that, they hope, will cause State Civil Service to launch an investigation. These rules are very clear in Rule 16.2(c) that the information is not public record and all information at this stage is confidential. Therefore, in order for investigations to be launched and conducted, the person must comply with Rule 16.2(b) by providing identifying information such as names, addresses, details, etc.

Rule 16.3 Investigations by the Director

This rule gives the Director the power to conduct investigations on his own initiative. This rule also grants the Director the authority to take a number of different corrective measures following an investigation.

(a) This rule establishes the Director's authority to investigate any suspected violations of a Civil Service Article and/Rule on his own or as ordered by the Commission.

(b) This rule orders the Director to investigate as he deems necessary when a request for investigation is received based upon the information provided.

(c) This rule provides actions the Director may take after conducting an investigation:

- issue a letter of admonishment,
- take corrective action,
- order an appointing authority to take corrective action,
- issue special reporting obligations on an appointing authority,
- remove delegated authority,
- require an appointing authority to seek Director approval of personnel actions,
- file formal charges with the Commission,
- report the facts to the legislative auditor, attorney general, district attorney, or anyone else deemed appropriate.

(d) This rule provides that corrective action(s) may include rescinding an action and changing the pay of an employee.

(e) This rule establishes that a notification process must occur when corrective actions lower an employee's pay rate or pay grade, or reverse his appointment or permanent status. This rule requires notice to the employee and a right to respond before the corrective action can become effective.

NOTE: Corrective actions may require the rescission of an action or changing the pay of an employee especially when the pay is in violation of a Civil Service Rule. The Director will require the agency to adjust the pay accordingly to be in compliance. [La. R.S. 42:460](#) establishes authority for the Division of Administration to promulgate rules, regulations and procedures for agencies for recoupment of overpayments. Further information regarding recoupment of employee overpayment can be found in DOA OSUP Memo [#2005-44](#) and [#2005-45](#).

Rule 16.4 Formal Charges

(a) This rule gives any person the right to file a formal charge when that person asserts that there has been a violation of the Civil Service Article and/or Rules.

(b) This rule specifies certain requirements of formal charges and states that they cannot be combined or joined with any other issue before the Commission. Formal charges must:

1. be in writing;
2. contain the name, address and daytime phone number of the person filing the charges, and of his attorney if he has one;
3. contain the name and address of the persons alleged to have violated the Civil Service Article and/or Rules;
4. state which provision of the Civil Service Article and/or Rules are alleged to have been violated;
5. give specific details of the violation such that the person accused can prepare a defense;
6. give specific facts that led the to the conclusion that the Civil Service Article and/or Rules have been violated;
7. state what action the complainant wants the Commission to take; and
8. state what evidence the complainant has to prove the violation.

(c) This rule provides for the Director to join the investigation as a complainant when the formal charges are filed by someone other than the Director.

(d) This rule clearly states that formal charges are NOT public records; they are confidential at this stage of an investigation.

Rule 16.5 Commission Action on Formal Charges

(a) This rule specifies that the Commission must consider all formal charges in executive session. This rule also gives the Commission sole discretion to take any of four specified actions. The Commission may:

1. refuse to accept the charges and dismiss them;
2. order the Director to investigate and report the findings to the Commission;
3. allow the complainant to file additional information; and/or
4. order a public hearing on some or all the charges.

(b) This rule requires written notice of the Commission's action to be sent to the complainant.

Rule 16.6 Docketing of Public Investigation

This rule requires that after a public investigation has been docketed, it becomes a public record. It also specifies who is to receive copies of the charge and the Commission's order.

Rule 16.7 Parties; Notice to Parties

(a) This rule identifies the parties to a public investigation and specifies who shall receive any required notice.

(b) This rule specifies that if any of the parties are represented by an attorney, the attorney will receive notice instead of his client. Giving notice to the attorney is considered equivalent to giving notice to the client. When there is no representation by an attorney, notice will be given directly to the parties.

Rule 16.8 Consolidation of Public Investigations

This rule allows the consolidation of public investigations involving certain commonalities.

Rule 16.9 Notice of Hearing

This rule defines the required time period for written notice and allows the waiver of the notice and delay with the consent of the parties. The written notice of a hearing, including time and place, will be mailed 30 calendar days before the hearing. With the consent of all parties, the 30-day notice can be waived.

Rule 16.10 Continuance of Hearings

This rule provides that the Commission may continue a public investigation hearing on its own motion, and that the Commission, its chairman or the Director may grant a continuance. The three reasons are:

- (a) for good cause shown; or
- (b) by consent of all parties; or
- (c) if it is not reached for hearing.

Rule 16.11 Summary Disposition

(a) This rule lists the grounds for summary disposition (dismissal of an investigation). The reasons are:

1. the conduct alleged is not a violation of the Civil Service Article and/or Rules;
2. the description of the conduct is not enough to allow the respondent to prepare a defense;
3. the facts alleged even if proved do not support a violation of the Civil Service Article and/or Rules;
4. the matter has become moot;
5. the complainant has already had the opportunity to prove the charges in another hearing;
6. the complainant has failed to prove the charge.

(b) A party may ask for summary disposition at the public hearing or any time before the Commission renders a decision.

(c) This rule requires the Commission to render its decision to summarily dispose of an investigation in writing.

Rule 16.12 Withdrawal of Charges

This allows both the withdrawal of a request by the complainant as well as a settlement of the investigation.

(a) This rule allows the complainant to ask the Commission's approval to withdraw the charges against the respondent. The request can either be in writing before the hearing date or orally at the day of the hearing.

(b) This rule allows the parties to settle a public investigation with the approval of the Commission.

Rule 16.13 Amendment of Charges

(a) This rule sets forth that the charges being investigated may be amended or added to by the Commission on its own or in response to a written request from the complainant.

(b) The rule requires the respondent to be notified of any amendments to the charges and given time to prepare his defense.

Rule 16.14 Procedure for Hearings

(a) This rule places the burden of proof on the complainant.

(b) This rule allows the Commission to hear the sworn testimony of the complainant first and then decide whether to proceed further with the hearing or dismiss the investigation.

(c) This rule provides for the Commission to allow the complainant to present his evidence and limits the ability of the complainant to enlarge the charges.

(d) This rule allows the respondent to rebut evidence provided by the complainant. The complainant must bear his burden of proof and evidence will not be admitted at the hearing to supplement or expand the charges.

(e) This rule requires the procedure for the hearing to comply with [Rule 13.19](#) as it relates to appeal hearings.

Rule 16.15 Failure of Parties to Appear at Hearing

The rule describes what action the Commission may take in the event that either party to a public investigation fails to appear.

(a) If the complainant fails to show up for the hearing without obtaining approval from the Commission, the Commission may order the investigation dismissed.

(b) If the respondent or the respondent's appointing authority fails to show up for the hearing without the approval of the Commission, the respondent may be deemed to have waived his appearance and testimony can be taken without his presence.

Rule 16.15.1 Attorney Fees

This rule allows the Commission to order the payment of attorney fees in cases where it finds there was no reasonable basis for the charge. The Commission can order the complainant to pay the respondent up to \$1,500 in attorney fees.

Rule 16.16 Decisions

This rule requires the Commission to issue a written decision after concluding a public hearing. It states that the decision is final on the day it is issued and requires the Director to mail a copy to all parties.

Rule 16.17 Certain Rules Governing Appeal Hearings Adopted by Reference

The following rules governing appeals also apply to public investigative hearings:

- [Rule 13.16 – Place of Hearing](#)
- [Rule 13.21 – Subpoena of Witnesses: Production of Documents](#)
- [Rule 13.24 – Transcripts of Proceeding of Appeals to the Commission](#)
- [Rule 13.25 – Refusal to Appeal; Refusal to Testify; False Testimony](#)
- [Rule 13.26 – Costs of Appeal](#)
- [Rule 13.27 – Witness Fees](#)
- [Rule 13.29 – Interlocutory Rulings](#)
- [Rule 13.32 – Recusation of Commissioner or Referee](#)
- [Rule 13.33 – Interrogatories; Pre-Trial Discovery; Rehearing of Appeal](#)

Rule 16.18 Repealed July 1, 2013

Job Aids and Resources

- [Requesting an Investigation](#)