



Post Office Box 94111
Baton Rouge, LA 70804-9111

www.civilservice.la.gov

SHANNON S. TEMPLET, DIRECTOR
Phone: 225-342-8274
Fax: 225-342-8058
TDD: 800-846-5277
Toll Free: 866-783-5462

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GENERAL CIRCULAR NUMBER 2013-013

DATE: May 10, 2013

TO: Heads of State Agencies and Human Resources Directors

SUBJECT: Public Hearing to consider amendments to civil service rules 1.39.2, 4.1, 5.5, 5.6, 5.6.1, 5.9, 6.5, 6.12.1, 11.5, 17.14, 17.18, 17.20, 17.25, 22.1, 22.3, 23.5, 23.6; to repeal civil service rules 1.11.1 and 1.38.1; and to adopt civil service rule 1.40.03.

The State Civil Service Commission will hold a public hearing at 9 a.m. on Wednesday, June 5, 2013, to consider amendments to civil service rules 1.39.2, 4.1, 5.5, 5.6, 5.6.1, 5.9, 6.5, 6.12.1, 11.5, 17.14, 17.18, 17.20, 17.25, 22.1, 22.3, 23.5, 23.6; to repeal civil service rules 1.11.1 and 1.38.1; and to adopt civil service rule 1.40.03.

The hearing will be held in the Louisiana Purchase Room of the Claiborne Building, 1201 North Third Street, Baton Rouge, Louisiana. Individuals who wish to comment on this proposal may do so at the public hearing, by writing to the Director of the Department of State Civil Service at Post Office Box 94111, Baton Rouge, Louisiana, 70804-9111, or by e-mailing the Civil Service Commission at civilservicecommission@la.gov. If any accommodations are needed, please notify the Department at (225) 342-8272 prior to the meeting.

Chapter One Changes

The proposed changes to Chapter 1 address the abolishment of definitions for "Demotion in Lieu of Layoff" and "Restricted Appointment"; revisions to the definition of "State Service" to specifically address the proposed abolishment of the restricted appointment, and establishes a definition of "Temporary" to define the term as currently referenced in Chapter's 4 and 23.

Current Rule	Proposed Rule
Chapter 1	
Demotion in lieu of layoff	
Definition: 1.11.1	
'Demotion in lieu of layoff' describes the movement of an employee to a new position, created with a lower maximum pay range, as the result of a drastic change in duties of an occupied position. Employees demoted in lieu of layoff are eligible for the Department Preferred Reemployment List for a period of two years.	Repealed effective July 1, 2013.
Restricted Appointment	
Definition: 1.38.1	
'Restricted Appointment' means a temporary appointment or combination of temporary appointments not to exceed a cumulative total of six months in a calendar year for a person.	Repealed effective July 1, 2013.
'Temporary'	
Definition: 1.40.03	
None	A non-permanent appointment of an employee performing services for a limited duration of time.
'State Service'	
Definitions: 1.39.2 (a) 4	
<p>1.39.2 'State Service' for the purposes of layoff and layoff avoidance measures, means the total length of Classified State Service in the equivalent full-time years, months and days as an employee of a state agency or agencies subject to the following:</p> <p>(a) Periods of time not counted as Classified State Service under this definition for the purposes of layoff and layoff avoidance shall be:</p> <p style="text-align: center;">***</p> <p>4. Classified State Service obtained after January 1, 1983, on a restricted or provisional appointment if such an appointment was not converted to a probational or job appointment.</p>	<p>1.39.2 'State Service' for the purposes of layoff and layoff avoidance measures, means the total length of Classified State Service in the equivalent full-time years, months and days as an employee of a state agency or agencies subject to the following:</p> <p>(a) Periods of time not counted as Classified State Service under this definition for the purposes of layoff and layoff avoidance shall be:</p> <p style="text-align: center;">***</p> <p>4. Classified State Service obtained after January 1, 1983, on a restricted or provisional appointment if such an appointment was not converted to a probational or job appointment by July 1, 2013.</p>

Chapter Four Changes

The proposed changes to Chapter 4 removes references to seasonal, intermittent or part-time language within Rule 4.1(d)1. The proposal provides that the Director can add to the unclassified service positions involving duty assignments of a temporary nature, when the duties are outside the scope of a classified position.

The proposed change to Rule 4.1(e) aligns with changes to Rule 3.1(o) bringing the Civil Service Rules into compliance with the Louisiana Supreme Court decision of *CIVIL SERVICE COMMISSION OF the CITY OF NEW ORLEANS v. The CITY OF NEW ORLEANS*, 854 So. 2d 322, 2002-1812 (La. 9/9/03).

Current Rule	Proposed Rule
Chapter 4	
Classified and Unclassified Positions	
Rule: 4.1(d)1	
(d) 1. The Director, upon submission by an employing agency of written justification deemed adequate by him, may add to the unclassified service positions involving duty assignments which are seasonal, temporary, intermittent or part-time.	(d) 1. The Director, upon submission by an employing agency of written justification deemed adequate by him, may add to the unclassified service positions involving duty assignments which are seasonal, temporary, intermittent or part-time <u>of a temporary nature.</u>
Classified and Unclassified Positions	
Rule: 4.1 (e)	
(e) The Commission adds to the unclassified service the positions of all persons rendering personal service to the State, or any agency thereof, pursuant to a contract for such services which, after review by the Director in accordance with Rule 3.1(o), is determined to him to provide for personal services which cannot or should not be performed by a classified employee.	(e) The Commission adds to the unclassified service the positions of all persons rendering personal service to the State, or any agency thereof, pursuant to a contract for such services after review by the Director in accordance with Rule 3.1(o), is determined to him to provide for personal services which cannot or should not be performed by a classified employee.

Chapter Five Changes

Proposed changes to Chapter 5 address amending the language of a position questionnaire to a position description, the abolishment of the demotion in lieu layoff process, and amendments to the Business Reorganization Process. In addition, the proposal addresses updating PES terminology and removes the dual career ladder policy requirements in the rule and places them in the HR Handbook.

Current Rule	Proposed Rule
Chapter 5	
Force and Effect of Job Specifications	
Rule: 5.5(b)	
(b) The allocation of a position to a job and the assignment of a job to a pay grade is based on the analysis of duties and responsibilities reported on the official position questionnaire by the appointing authority.	(b) The allocation of a position to a job and the assignment of a job to a pay grade is based on the analysis of duties and responsibilities reported on the official position questionnaire description by the appointing authority.
Status of Incumbent when Position is Reallocated	
Rule: 5.6 (c)	
(c) If the duties which caused the reallocation are returned or removed, the incumbent shall be entitled to remain in the position. In accordance with Rule 5.6.1(e)6, if the position is declared a new position, the former shall be deemed abolished and the incumbent may be relocated by demotion in lieu of layoff as defined in Rule 1.11.1.	Repealed July 1, 2013.
Effect of Business Reorganization on Encumbered Positions	
Rule: 5.6.1 (a)	
(a) When an appointing authority determines it is necessary to restructure an organization to more effectively or efficiently carry out its mission, he shall submit a plan to the Director outlining his rational business reason for the proposed change and the impact of the change on the incumbents of the affected positions. This rule shall not apply if the restructuring proposes a reduction of the number of employees in the organization. Such reductions in force shall be conducted in accordance with Chapter 17, Layoffs and Layoff Avoidance Measures.	a) When an appointing authority determines it is necessary to restructure an organization to more effectively or efficiently carry out its mission, <u>and this restructuring has the potential to change the allocation of a permanent classified employee to a job title in a pay grade with a lower maximum</u> , he shall submit a plan to the Director outlining his rational business reason for the proposed change and the impact of the change on the incumbent(s) of the affected position(s). This rule shall not apply if the restructuring proposes a reduction in the number of employees in the organization. Such reductions in force shall be conducted in accordance with Chapter 17, Layoffs and Layoff Avoidance Measures.
Rule: 5.6.1(b)	
(b) Position allocations that change as a result of the business reorganization may be effected through reallocation (up, down, or laterally), job correction or the creation of a new position as determined by the Director. Occupied positions shall be reallocated down only in	(b) Position allocations that change as a result of the business reorganization may be effected through reallocation (up, down, or laterally), job correction or the creation of a new position as determined by the Director. Occupied positions shall be reallocated down only in

Current Rule	Proposed Rule
accordance with parts (d), (e) and (f) of these rules.	accordance with parts (d), (e) and (f) of these rules.
Rule: 5.6.1 (c)	
<p>(c) The business reorganization plan shall be submitted to the Director prior to the proposed effective date. The plan shall include, but not necessarily be limited to, the following documents:</p> <ol style="list-style-type: none"> 1. proposal outlining the rational business reasons resulting in the reallocation(s) down; 2. position descriptions (SF-3s) for all positions in the affected organizational unit; 3. current and proposed organizational charts; and 4. copies of notices to employees issued in accordance with Rule 5.6.1(d). 	<p>(c) The business reorganization plan shall be submitted to the Director prior to the proposed effective date. The plan shall include, but not necessarily be limited to, the following documents:</p> <ol style="list-style-type: none"> 1. proposal outlining the rational business reasons resulting in the reallocation(s) down; 2. position descriptions (SF-3s) for all affected positions in the affected organizational unit; 3. current and proposed organizational charts; and 4. copies of notices to employees issued in accordance with Rule 5.6.1(d).
Rule: 5.6.1(e)	
<p>(e) Approval of Business Reorganization Plans Involving Reallocations Down The Director may:</p> <ol style="list-style-type: none"> 1. approve the plan; 2. disapprove the plan; 3. grant interim approval of the plan pending ratification of the Commission at its next regularly scheduled meeting 4. refer the plan directly to the Commission for consideration at its next regularly scheduled meeting; 5. require the agency to implement the reorganization in accordance with Chapter 17 of these rules; 6. require the agency to implement a demotion in lieu of layoff as defined in Rule 1.11.1. 	<p>(e) Approval of Business Reorganization Plans Involving Reallocations Down The Director may:</p> <ol style="list-style-type: none"> 1. approve the plan; 2. disapprove the plan; 3. grant interim approval of the plan pending ratification of the Commission at its next regularly scheduled meeting 4. refer the plan directly to the Commission for consideration at its next regularly scheduled meeting; 5. require the agency to implement the reorganization in accordance with Chapter 17 of these rules. 5. require the agency to implement a layoff the reorganization in accordance with Chapter 17. of these rules. 6. require the agency to implement a demotion in lieu of layoff as defined in Rule 1.11.1.
Rule: 5.6.1(f)	
<p>(f) Pay of employees negatively affected by reallocation down or demotion in lieu of layoff shall be red-circled in accordance with Chapter 6 of these rules.</p>	<p>(f) Pay of employees negatively affected by reallocation down or demotion in lieu of layoff shall be red-circled in accordance with Rule 6.15 Chapter 6 of these rules.</p>
Rule: 5.6.1(g)	

Current Rule	Proposed Rule
<p>(g) Employees whose positions are moved into a lower job classification as a result of the business reorganization shall be eligible to be placed on a Department Preferred Reemployment List (DPRL). Employees on such a list shall be given preferential hiring rights for their department or agency for the job which they occupied prior to the implementation of the business reorganization. Employees shall be ranked in order of length of state service. The employee with the most state service for a given job and parish shall be given the first offer.</p> <p>1. Eligibility shall be limited to:</p> <p>(d) employees whose most recent official performance rating at the time of the reorganization was “meets requirements” or better; and</p> <p style="text-align: center;">***</p> <p>3. Exceptions to Hiring from the List: If there is a department preferred reemployment list, the employee who is first on the list shall be hired first for positions in his career field except when a position is filled by:</p>	<p>(g) Employees whose positions are moved into a lower job classification as a result of the business reorganization shall be eligible to be placed on a Department Preferred Reemployment List (DPRL). Employees on such a list shall be given preferential hiring rights for their department or agency for the job which they occupied prior to the implementation of the business reorganization. Employees shall be ranked in order of length of state service. The employee with the most state service for a given job and parish shall be given the first offer.</p> <p>1. Eligibility shall be limited to:</p> <p>(d) employees whose most recent official performance rating evaluation at the time of the reorganization was “meets requirements” or better; “exceptional”, “successful” or their equivalents; and</p> <p style="text-align: center;">***</p> <p>3. Exceptions to Hiring from the List: If there is a DPRL department preferred reemployment list, the employee who is first on the list shall be hired first for positions in his career field except when a position is filled by:</p>
Dual Career Ladder Classification Program	
Rule 5.9 (b)	
<p>(b) Such a program shall be implemented in accordance with written policies and procedures established by each department. These written policies must include at a minimum the following elements: Program goals and expectations.</p> <ol style="list-style-type: none"> 1. Performance standards for employees eligible to enter the program. 2. Selection procedures to move employees into a dual career ladder job title. 3. Supplemental qualification requirements for each position encompassed by the program. 4. The scope of intended use including the location and number of dual career ladder positions and job 	<p>(b) Such a program shall be implemented in accordance with written policies and procedures established by each department approved by the State Civil Service Commission. These written policies must include at a minimum the following elements:</p> <ol style="list-style-type: none"> 1. Repealed July 1, 2013. 2. Repealed July 1, 2013. 3. Repealed July 1, 2013. 4. Repealed July 1, 2013. 5. Repealed July 1, 2013.

Current Rule	Proposed Rule
specifications for all dual career ladder jobs. 5. Program assessment procedures and reports.	

Chapter Six Changes

The proposed change to Chapter 6 removes references to Restricted Appointment and replaces them with the references to the proposed Classified - When Actually Employed (WAE) appointment.

Current Rule	Proposed Rule
Chapter 6	
Hiring Rate	
Rule: 6.5 (a)	
(a) The pay of a probational, job, or provisional appointee shall not be reduced when the employee has served longer than 6 months, is earning more than the minimum for the job he occupies, and is then probationally appointed to a position in the same job, or a different job with the same maximum rate of pay, in the same department without a break in service	(a) The pay of a probational, or job, or provisional appointee shall not be reduced when the employee has served longer than 6 months , is earning more than the minimum for the job he occupies, and is then probationally appointed to a position in the same job, or a different job with the same maximum rate of pay, in the same department without a break in service
Hiring Rate	
Rule: 6.5 (d)	
(d) Restricted Appointments When an appointing authority makes a restricted appointment, he may set the pay of the employee at any rate in the range	(d) Restricted Appointments <u>Classified When Actually Employed (WAE) Appointment</u> When an appointing authority makes a restricted appointment <u>classified WAE appointment</u> , he may set the pay of the employee at any rate in the range
Compensation for Holidays	
Rule: 6.12.1 (b)	
Employees shall be eligible for compensation on holidays observed except: *** (b) When the employee is on restricted appointment;	Employees shall be eligible for compensation on holidays observed except: *** (b) When the employee is on restricted <u>appointment classified WAE appointment</u> ;

Chapter Eleven Changes

The proposed change to Chapter 11 removes reference to Restricted Appointment and replaces it with references to the proposed Classified - When Actually Employed (WAE) appointment.

Current Rule	Proposed Rule
Chapter 11	
Earning of Annual and Sick Leave	
Rule: 11.5 (a)	
(a) Annual and sick leave shall be earned by each full-time and each part-time employee who has a regular tour of duty, except that no employee shall earn annual or sick leave while serving on restricted appointment or while using leave from an agency leave pool as defined in Rule 11.34.	(a) Annual and sick leave shall be earned by each full-time and each part-time employee who has a regular tour of duty, except that no employee shall earn annual or sick leave while serving on restricted <u>classified WAE</u> appointment or while using leave from an agency leave pool as defined in Rule 11.34.

Chapter Seventeen Changes

The proposed changes to Chapter 17 address amending the requirements for written layoff plans. The proposal requires a listing of all temporary positions in the written layoff plan. This change was previously added to the HR Handbook but was not included in the rule itself.

In addition, the proposed change removes references to Restricted Appointment and replaces them with references to the proposed Classified – When Actually Employed (WAE) appointment.

Current Rule	Proposed Rule
Chapter 17	
Layoffs-Requirements for the Written Layoff Plan	
Rule 17.14	
The layoff plan shall include, but not necessarily be limited to, the following items: *** 13. Names and pay of employees occupying unclassified positions authorized under Rule 4.1(d)1 or 4.1(d)2 in the affected organizational unit, and how these positions will be affected by the layoff.	The layoff plan shall include, but not necessarily be limited to, the following items: *** 13. Names and pay of employees occupying unclassified positions authorized under Rule 4.1(d)1 or 4.1(d)2 in the affected organizational unit, and how these positions will be affected by the layoff. <u>13. Name, job title, beginning and end date of appointment, authorizing rule number and pay of all unclassified and classified</u>

Current Rule	Proposed Rule
	<u>temporary, non-permanent appointees in the affected organizational unit, and how these positions will be affected by the layoff.</u>
Layoffs-Relocation Provisions	
Rule 17.18 (1)	
(1) The agency may end job and /or restricted appointments of employees who occupy temporary positions and may use the position(s) to rehire, without a break in service, a permanent employee who was laid off. The rehired employee may be rehired in job or restricted appointment status and shall be placed on the Department Preferred Reemployment List for permanent appointments.	(1) The agency may end job and /or <u>classified WAE</u> restricted appointments of employees who occupy temporary positions and may use the position(s) to rehire, without a break in service, a permanent employee who was laid off. The rehired employee may be rehired in job or restricted <u>classified WAE</u> appointment status and shall be placed on the Department Preferred Reemployment List for permanent appointments.
Freeze on Appointments to Layoff Affected Jobs	
Rule: 17.20 b (4)	
(b) Exceptions to the freeze that do not require the Director’s approval include: *** 4. restricted appointments, job appointments, details to special duty, and use of temporary staffing service employees.	(b) Exceptions to the freeze that do not require the Director’s approval include: *** 4. restricted <u>classified WAE</u> appointments, job appointments, details to special duty, and use of temporary staffing service employees
Post Layoffs – Temporary Appointments From List	
Rule: 17.25	
New restricted or job appointments shall be offered to the first person on the list. If the person accepts or declines such a temporary appointment, his name shall remain on the list for permanent appointments.	New restricted <u>classified WAE</u> or job appointments shall be offered to the first person on the list. If the person accepts or declines such a temporary appointment, his name shall remain on the list for permanent appointments.

Chapter Twenty-two Changes

The proposed change to Chapter 22 removes references to Restricted Appointments and replaces them with references to the proposed Classified –When Actually Employed (WAE) appointment.

Current Rule	Proposed Rule
Chapter 22	

Methods of Filling Vacancies	
Rule 22.1	
Vacancies in the classified service may be filled by probational appointment, job appointment, restricted appointment, promotion, demotion, reassignment, position change, transfer, noncompetitive reemployment of a former employee, appointment from a Department Preferred Reemployment list, temporary inter-departmental assignment, or detail to special duty.	Vacancies in the classified service may be filled by probational appointment, job appointment, restricted <u>classified WAE</u> appointment, promotion, demotion, reassignment, position change, transfer, noncompetitive reemployment of a former employee, appointment from a Department Preferred Reemployment list, temporary inter-departmental assignment, or detail to special duty.
Public Announcement of Job Vacancies	
Rule: 22.3 (b)(2)	
(b) A vacancy may be filled without public announcement in the circumstances listed below: *** 2. Restricted appointment. ***	(b) A vacancy may be filled without public announcement in the circumstances listed below: *** 2. Restricted appointment <u>classified WAE appointment.</u> ***

Chapter Twenty-three Changes

The proposed change to Chapter 23 addresses the duration of an initial job appointment; the abolishment of the Restricted Appointment; the establishment of a Classified – When Actually Employed (WAE) appointment and defines the purposes of the Classified WAE. The proposed changes include the criteria that must be met by appointees and the authority of the Director and Commission concerning a Classified WAE appointment.

Current Rule	Proposed Rule
Chapter 23	
Job Appointment	
Rule 23.5 (a)	
(a) An appointing authority may use a job appointment to fill a position for a period not to exceed three years. For rational business reasons, an appointing authority may request a longer term job appointment. The Commission may approve such requests or delegate approval authority to the Director. An appointing authority may terminate a job appointment at any time. This rule is subject to Rules 17.20(b) 4 and 17.25 concerning layoff related actions.	(a) <u>A job appointment is a temporary appointment of an employee to fill a position in the classified service for a limited period of time.</u> An appointing authority may use a job appointment to fill a position for a period not to exceed three four years. For rational business reasons, an appointing authority may request a longer term job appointment. The Commission may approve such requests or delegate approval authority to the Director. An appointing authority may terminate a job

Current Rule	Proposed Rule
	<p>appointment at any time. This rule is subject to Rules 17.20(b)4 and 17.25 concerning layoff related actions</p>
<p>Restricted Appointment</p>	<p>Restricted Appointment <u>Classified When Actually Employed (WAE) Appointment</u></p>
<p>Rule 23.6</p>	<p>23.6</p>
<p>(a) A restricted appointment is a temporary appointment to be used for work of a temporary nature, to substitute for another employee, pending filling the position in a regular manner, or to address an emergency or work overload situation. An agency shall maintain written justification stating the reason for the restricted appointment. No restricted appointee shall work more than six months in a calendar year. The appointing authority or the Director may terminate the restricted appointment at any time.</p> <p>(b) Restricted appointees must meet the Minimum Qualifications for the job.</p> <p>(c) This rule is subject to Rules 17.20(b)4 and 17.25 concerning layoff related actions.</p>	<p>(a) A restricted appointment is a temporary appointment to be used for work of a temporary nature, to substitute for another employee, pending filling the position in a regular manner, or to address an emergency or work overload situation. An agency shall maintain written justification stating the reason for the restricted appointment. No restricted appointee shall work more than six months in a calendar year. The appointing authority or the Director may terminate the restricted appointment at any time.</p> <p>(b) Restricted appointees must meet the Minimum Qualifications for the job.</p> <p>(c) This rule is subject to Rules 17.20(b)4 and 17.25 concerning layoff related actions</p> <p><u>(a) A classified WAE appointment is a temporary appointment of an employee to fill a position in the classified service for a limited period of time and hours in order to address filling the position in a regular manner, or to address an emergency or work overload situation. An appointing authority may use a classified WAE appointment to fill a position when the hours worked do not exceed 1245 hours during a twelve (12) month period. For rational business reasons, an appointing authority may request to exceed 1245 hours during the twelve month period. The Commission may approve such requests or delegate approval authority to the Director. The appointing authority may terminate the classified WAE appointment at any time.</u></p> <p><u>(b) The Director may issue policy standards for the use of classified WAE appointments.</u></p>

Current Rule	Proposed Rule
	<p><u>(c) The Commission or Director may, at any time, cancel a classified WAE appointment and/or withdraw an agency's authority to make such appointments.</u></p> <p><u>(d) Classified WAE appointees must meet the minimum qualifications for the job.</u></p> <p><u>(e) This rule is subject to Rules 17.20(b)4 and 17.25 concerning layoff related actions.</u></p>

Sincerely,

s/Shannon S. Temple
Director