

### TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control No. \_\_\_\_\_ Department or Agency State Personnel Board  
Rule No. 670-X-15  
Rule Title: Other Types of Leave  
\_\_\_\_\_ New  \_\_\_\_\_ Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No \_\_\_\_\_

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? No \_\_\_\_\_

Is there another, less restrictive method of regulation available that could adequately protect the public? No \_\_\_\_\_

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No \_\_\_\_\_

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No \_\_\_\_\_

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes \_\_\_\_\_

\*\*\*\*\*  
Does the proposed rule have an economic impact? No \_\_\_\_\_

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

\*\*\*\*\*  
Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer \_\_\_\_\_ *Jackie Graham* \_\_\_\_\_  
Date 3/19/15 \_\_\_\_\_

(DATE FILED)  
(STAMP)

APA-2  
07/04

**ALABAMA STATE PERSONNEL BOARD**

**NOTICE OF INTENDED ACTION**

AGENCY NAME: Alabama State Personnel Board

RULE NO. & TITLE:

670-X-1: Organization  
670-X-2: Application of Policy and Rules  
670-X-3: Definitions  
670-X-4: Prohibition of Discrimination  
670-X-5: Meetings, Minutes and Hearing Procedure  
670-X-6: Responsibilities of the State Personnel Director  
670-X-7: Position Classification Plan  
670-X-8: Pay Plan and Pay Administration  
670-X-9: Personnel Selection Procedures  
670-X-10: The Working Test (Probationary) Period  
670-X-11: Hours of Work  
670-X-12: Holidays  
670-X-13: Annual Leave (Vacation)  
670-X-14: Sick Leave  
670-X-15: Other Types of Leave  
670-X-16: Performance (Service) Ratings  
670-X-17: Records and Reports  
670-X-18: Separations from Service  
670-X-19: Employee Work Rules

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

670-X-1: Organization

The changes are not substantive and are only grammatical.

670-X-2: Application of Policy and Rules

The change will mirror the statutory language of Ala. Code, 1975, § 36-26-9.

670-X-3: Definitions

The changes are clarification changes, such as adding the definitions of job abandonment, separation during probation, and retirement.

670-X-4: Prohibition of Discrimination

The changes are simply updates to terminology.

#### 670-X-5: Meetings, Minutes and Hearing Procedure

There are minor changes that reference statutory authority or clarify the hearing procedure. One addition was made to allow the hearing officer to dismiss an appeal should the employee fail to prosecute his or her case. Also, if the employee fails to attend the hearing, he or she forfeits his or her right to oral argument before the Board.

#### 670-X-6: Responsibilities of the State Personnel Director

The changes are simple language clarifications.

#### 670-X-7: Position Classification Plan

There are minor word changes throughout. There is an addition that the Governor must approve new classes and pay range changes. There will be a change under 670-X-7-.06 to increase the time that an incumbent must perform the duties for the reallocated classification from three months to one year. There is also an addition that an employee that is reallocated will be given permanent status in the new class and will not be eligible for a promotional or probationary increase. Paragraphs 6 and 7 under 670-X-7-.06 will be deleted.

#### 670-X-8: Pay Plan and Pay Administration

There are minor wording changes throughout the chapter. There is an addition to 670-X-8-.01 that the State fiscal officer will be consulted on all of the maintenance and administration of the pay plan. Delete the archaic "impossibility" language in 670-X-8-.02. Also, there is an addition that an above the minimum appointment will be based on the employee's prior salary or experience of the new employee or competitive market. Under 670-X-8-.04(2), there is clarification of the procedures in the event raises are frozen. Also, there will be a cap of two steps for annual merit raises. There is a complete revision of demotions. There is a provision added to allow an employee to voluntarily diminish his or her salary under 670-X-8-.09(b). Under 670-X-8-.11, there is a provision that an employee will not receive a salary increase upon a transfer to a new agency.

#### 670-X-9: Personnel Selection Procedures

There are wording and clarification changes throughout the chapter. Under 670-X-9-.01, an applicant must certify the truthfulness of his or her application. Any falsification may result in removal and bar from any and all employment registers. Under 670-X-9-.02, a probationary employee that is laid off will have to finish his or her probationary period upon reemployment. An applicant may request to be placed inactive on a register rather than be removed from the register. Limited tenure has been added under 670-X-9-.03. Under 670-X-9-.04, the State Personnel Director will be allowed to place an employee in a comparable classification for demotion purposes. Also, the rule is redefined to be more specific as to the rights of classified employees appointed to unclassified and exempt positions.

#### 670-X-10: The Working Test (Probationary) Period

Clarification changes were made. Rule 670-X-10-.03 is deleted due to duplication in a previous rule.

#### 670-X-11: Hours of Work

There are wording and clarification changes throughout the chapter. The requirement of the same number of hours for all positions in a classification is being deleted. The additions are as follows: (1) that FLSA exempt employees do not earn paid overtime or compensatory time without the approval of the State Personnel Board; (2) that the employee will be liable for any repayment of time improperly credited or paid; (3) that compensatory time may not be taken to work a second job during his or her regular work schedule; and (4) that subsistence for authorized law enforcement officers will be prorated in accordance with the actual time that the employee performs his or her duties as a law enforcement officer.

#### 670-X-12: Holidays

The changes bring the chapter into statutory compliance with Ala. Code, 1975, § 1-3-8.

#### 670-X-13: Annual Leave (Vacation)

There are statutory updates throughout this chapter. The additions are as follows: that employment time where leave was not accumulated in accordance with these rules will not be used in length of service calculations, and that an employee may not use annual leave to work a second job during his or her regular work schedule. There are clarification that an employee will be paid a maximum of 480 hours of accumulated annual leave in his or her career, and that an employee may not return to State service until he or she has been absent from State service for longer than the payment of annual leave.

#### 670-X-14: Sick Leave

There are wording and clarification changes as well as changes to bring the chapter into statutory compliance. There is an addition that an employee will only be compensated for a maximum of 600 hours of accumulated sick leave in his or her career. There is an addition that an appointing authority may require an employee to maintain a minimum number of sick leave hours.

#### 670-X-15: Other Types of Leave

There are wording and clarification changes as well as changes to bring the chapter into statutory compliance. One addition states that leave without pay may not be used for the employee to work during his or her regular work schedule.

#### 670-X-16: Performance (Service) Ratings

The changes are clarification changes.

#### 670-X-17: Records and Reports

The changes bring the chapter into statutory compliance.

#### 670-X-18: Separations from Service

There are clarification and statutory changes throughout this chapter. There are additional changes that at the discretion of the appointing authority, an employee in an abolished position may move to a position in a lower classification and that at the discretion of the appointing authority and the approval of the State Personnel Director, a permanent employee may bump another employee during a layoff. Another change adds that an employee who abandons his or her position will have his or her action treated as a voluntary resignation.

670-X-19: Employee Work Rules

The changes remove outdated work rules, add new work rules, and move some work rules to the section that allows for suspension or discharge on the first offense, including “conduct unbecoming a State employee.”

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments can be presented at the public hearing scheduled at 9:00 am on Thursday, April 30, 2015 at the Alabama State Personnel Department located at the Folsom Administrative Building, 64 North Union Street, Room 319, Montgomery, Alabama 36130. Written comments may be addressed to the Tara Hetzel, Alabama State Personnel Department, at the same address or at [www.personnel.alabama.gov](http://www.personnel.alabama.gov). Written comments must be received by the close of business on Tuesday, May 5, 2015.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, May 5, 2015

CONTACT PERSON AT AGENCY:

Tara Hetzel, General Counsel  
334-353-0046

  
(Signature of officer authorized to promulgate and adopt rules)

**CHAPTER 670-X-15  
OTHER TYPES OF LEAVE**

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**670-X-15-.01 Educational Leave.** Educational leave at full or part pay may be granted to a permanent employee upon recommendation of the appointing authority provided the employee takes approved courses that are related to the improvement of his performance on his current job. The plan for such leave must be submitted in advance by the appointing authority for approval of the Director.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-9.

**History:** Filed September 29, 1981.

**670-X-15-.02 Military Leave.**

(1) All employees in the state service, who shall be active members of the Alabama National Guard or Naval Militia, or of the reserve components of the Army, Navy, Marine Corps, Air Force, or Coast Guard shall be entitled to military or naval leave of absence from the respective civil duties and occupations on all days that they shall be engaged in field or coast defense or other training or on other service ordered under the provisions of the military laws of Alabama, or of the National Defense Act, or of the federal laws governing the United States Naval Reserves, without loss of pay, time, annual vacation, sick leave, but no person granted such leave of absence with pay shall be paid more than ~~21 working days~~ 168 working hours per calendar year. In addition, thereto, such persons shall be entitled to be paid for no more than ~~21 working days~~ 168 working hours at any one time while called by the Governor to duty in the active service of the state.

(2) All employees with the state who have served in permanent positions for three months or more who are drafted into the military service of the U.S., or who volunteer to join the U.-S. Army, the U.S. Navy, the U.S. Marine Corps, the Air Force, or the U.-S. Coast Guard, or the reserve components thereof, shall be allowed ~~21 working days~~ 168 working hours leave with pay, as is provided in the Military Code of Alabama for members of the National Guard or military reserve who are inducted into active service.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-31.

**History:** Filed September 29, 1981. **Amended:** March 19, 2015, effective\_\_\_\_\_.

**670-X-15-.03 Leave Without Pay.**

(1) Subject to the approval of the Director, an appointing authority may grant in writing to any employee a leave of absence without pay for a period not to exceed one year. Upon the expiration of such leave of absence, the employee shall be reinstated to a position in the classification he occupied at the time the leave was granted, even though this may require laying off an employee engaged to perform the duties during the period of the leave of absence. Failure of an employee to report for duty promptly at the expiration of a leave of absence shall be just cause for dismissal. If necessary to the efficient conduct of the business of the state, an employee on such leave of absence may be notified to return to work prior to the time of the expiration of the leave. Leave without pay may not be granted in order for an employee to engage in any other employment during his scheduled working hours.

(2) Should ~~he~~ the employee fail to return to work as ~~notified~~ directed, the Director shall declare the position vacant and shall fill it by the means prescribed in these rules for the filling of vacant positions.

**Author:** Halycon Vance Ballard

**Statutory Authority:** Code of Ala. 1975, § 36-26-9.

**History:** Filed September 29, 1981. **Amended:** Filed May 24, 1985; February 28, 1991. **Amended:** March 19, 2015, effective\_\_\_\_\_.

**670-X-15-.04 Special Security Or Defense Leave Of Absence.**

When the services of a regular employee have been requested by any agency of the United States for work directly related to national security or defense, he may be granted a leave of absence without pay for such time as his services may be needed. ~~Provided~~ provided that, the United States shall state in writing that the need is urgent and shall in each case name the employee whose services are desired; and provided further, that the appointing authority shall certify his willingness to release the employee. An employee on leave under these conditions, shall give the appointing authority and the ~~State Personnel~~ Director at least thirty days notice when he is ready to return to his regular position, and the appointing authority shall reinstate him within this period. In any case that such an employee fails to return to his regular position within sixty days of his release from the specific work for which leave was granted, he shall forfeit all rights to reinstatement.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-9.

**History:** Filed September 29, 1981. **Amended:** March 19, 2015, effective\_\_\_\_\_.

**670-X-15-.05 Court Attendance.** Employees in the state service, who are required by a court to attend such court in the capacity of jurors, shall be granted a special leave with pay to attend such court, which shall be reported as such. Attendance in a court by law enforcement officers and other employees of the state as witnesses in their official capacities shall not be considered as special leave, but rather as a part of their assigned duties; and no provision of this section shall alter or affect in any way the existing statutes or rules regulating such attendance and the disposition of witness fees. Employees who are called as witnesses in their individual capacities are not entitled to a special leave, and should ~~arrange~~ request for time off through annual leave or leave without pay.

**Author:** Halycon Vance Ballard

**Statutory Authority:** Code of Ala. 1975, § 36-26-9.

**History:** Filed September 29, 1981. **Amended:** Filed February 28, 1991. **Amended:** March 19, 2015, effective\_\_\_\_\_.



**670-X-15-.06 Mandatory Annual Leave And/Or Leave Without Pay.**

(1) An appointing authority, with the approval of the ~~Personnel~~ Director, may require an employee to use accumulated annual leave in ten day work increments under certain circumstances when the appointing authority deems the employee's absence from work to be in the best interests of the agency. Examples of such circumstances would include a period of time when the employee is under investigation ~~leading~~ that may lead to disciplinary proceedings, the period of time pending a disciplinary hearing after the employee has received notice of such hearing, and at such times as the employee is physically incapacitated from performing the work assignment (such as in a state of intoxication).

(2) Under similar circumstances as enumerated in (1) above, when the employee has no accumulated annual leave or insufficient annual leave, the appointing authority may nevertheless require the employee to vacate the work station for a specified period of time in the status of leave without pay. Such action by the appointing authority should be preceded by a notice to the employee that such action is contemplated and an opportunity for the employee to be heard in response.

(3) The Director shall have the discretion to restore accumulated annual leave expended under the provisions of (1) above, and/or approve a subsequent reinstatement of pay forfeited by the employee during the leave without pay status provided for in (2) above.

**Author:** Frank Ussery

**Statutory Authority:** Code of Ala. 1975, § 36-26-9.

**History: Emergency Adoption:** Filed November 19, 1987.

**Permanent Adoption:** Filed January 27, 1988. **Amended:**  
March 19, 2015, effective\_\_\_\_\_.

**670-X-15-.07 Bereavement Leave**

(1) An employee who is regularly employed by the state, and is subject to the provisions of the State Merit System, and all legislative personnel, officers, and employees, including, but not limited to, Legislative Reference Service personnel, whether subject to the State Merit

System or not, may be granted bereavement leave with pay for the death of a person related by blood, adoption, marriage, or otherwise provided for by the Board.

(2) Bereavement leave may only be granted to an employee who does not have accrued sick leave available for such use.

(3) For any one occurrence, the bereavement leave shall not exceed three days.

(4) Any bereavement leave granted to an employee must be reimbursed to the state in the form of leave days (sick, annual, personal), within one calendar year of the use of the bereavement leave.

(5) In the event that the employee leaves state service prior to repayment of the bereavement leave, he shall have the leave amount deducted from his final pay check.

**Author:** Jackie B. Graham, State Personnel Director

**Statutory Authority:** Code of Ala. 1975, § 36-26-36.3.

**History:** March 19, 2015, effective \_\_\_\_\_.