

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency State Personnel Board

Rule No. 670-X-3

Rule Title: Definitions

_____ 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. 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-3
DEFINITIONS**

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670-X-3-.01 Definitions

670-X-3-.01 Definitions. The words and phrases have the following meanings when used in these rules unless otherwise indicated in the context. The masculine noun or pronoun as used in these rules includes the feminine also.

(a) General.

1. "Merit System Act" or "The Act" means Act No. 58 of the Acts of 1939, approved by the Governor, March 2, 1939, also codified at §§ 36-26-1 through 36-26-83.
2. The term "Department" unless specifically stated otherwise means the State Personnel Department, including the Board and the Director.
3. The "Board" means the State Personnel Board.
4. The "Director" means State Personnel Director.
5. The term "Appointing Authority" means the officer, board, commission, person, or group of persons having the power to make appointments to offices of positions of trust or employment in the state service.

(b) Kinds of Appointments.

1. "Regular Appointments" means selection by the appointing authority from the names certified by the ~~Personnel~~ Department of a person to occupy a permanent position - subject to a working-test (probationary) period of at least six months.
2. "Temporary Appointment" means appointment of a person from an appropriate eligible list, regardless of standing on the list, to a job for not more than 104 work days.
3. "Provisional Appointment" is the appointment of a qualified person by an appointing authority (with approval of the Director) to occupy a position without status for a

period of no more than 156 work days pending establishment of an appropriate eligible register.

(c) Registers.

1. An "Eligible Register" is a list of names of persons who have successfully competed by examination arranged in order of their final rating.

2. A "Promotional Register" is a list of names of classified persons with current permanent status in a class who have met the requirements (competitively) for promotion to a higher class ranked in order of their final ratings.

3. A "Reemployment RegisterList" is a list of names of classified persons who have been laid off, retired, or who have resigned in good standing and requested within the time prescribed in these rules that they be so listed.

(d) Position Classification System.

1. "Class" or "Class of Positions" means a definitely recognized kind of employment in the classified service designed to ~~embrace~~ include all positions that are sufficiently alike, with respect to the character of duties, responsibilities, and ~~consequent~~ qualification requirements, as to be treated alike under like conditions for all personnel purposes.

2. "Classification Plan" means an orderly arrangement of positions into separate and distinct classes so that each will contain those positions which involve similar duties and responsibilities as applied to positions designated in the Act as being in the "Classified Service."

(e) Pay Plan and Salary Increases.

1. "Compensation Plan" or "Pay Plan" means a schedule of salaries officially adopted by the Board with the approval of the Governor consisting of minimum, intermediate and maximum salary rates for each class of positions, so that all positions within a class will be paid according to the same salary range.

2. "Performance Salary Advance" means the advance or increase of an employee's present salary rate to a higher rate within the range for the class of positions involved

to recognize growth and manner of performance in the job, including the successful completion of probation.

3. "Promotional Salary Advance" means the increase granted to an employee who is promoted from a position to another position of a class assigned to a higher salary range in recognition of the assumption of greater responsibility and more difficult and complex work.

4. "Salary Adjustment" means any change in an employee's salary rate other than a performance or promotional salary advance; included may be (a) an adjustment to a different rate in a higher salary range resulting from the reassignment of the class to the higher range, only if the person is below the minimum salary range, (b) an adjustment to a different rate in a higher salary range resulting from the reallocation of the position to a class in the higher range (when deemed not to involve a promotion), only if the person is below the minimum salary range, (c) an adjustment to a lower rate as a result of voluntary demotion or disciplinary action, and (d) an increase resulting from an across-the-board increase in the rates of the salary schedule in recognition of increases in prevailing rates in the labor market and the cost of living.

5. "Assignment," when used in salary administration, means the designation of a class to be paid according to a particular salary range by specifying the range number.

6. "Reassignment," when used in salary administration, means an officially adopted change in the range number designation for a class.

(f) Employees.

1. The "Classified Service" consists of all positions in the state service not specifically exempt or placed in the unclassified service by the Act.

2. The "Unclassified Service" includes: one confidential assistant or secretary for each elected officer, and one for each department head appointed by the Governor, and one such confidential employee for each board and each commission, and employees in the Governor's office who are not exempt.

3. The "Exempt Service" includes: (1) officers elected by vote of the people; (2) officers and employees of the Legislature; (3) ~~officers, attendants, and employees of the circuit courts, clerks of county jury boards, and deputy circuit solicitors~~ all employees of a district attorney's office; (4) members of boards and commissions, whether appointed or self-perpetuating, and heads of departments required by law to be appointed by the Governor or by boards or commissions with the Governor's approval; (5) all officers and employees of the state's institutions of higher learning, teacher training institutions and normal schools; (6) ~~all officers and employees of all,~~ educational, eleemosynary and correctional* institutions which are governed and controlled by boards of trustees or similar governing bodies, ~~the~~ and secondary agricultural schools and vocational schools; (7 6) all inmate help in all charitable, penal and correctional institutions; (~~8~~ 7) all commissioned and warrant officers and enlisted men of the National Guard and Naval Militia of the state, in their respective military and naval grades; (~~9~~ 8) the Governor's private secretary, legal advisor, recording secretary, and those employees of the Governor's office paid exclusively out of the Governor's emergency or contingent funds; and (~~10~~ 9) the employees of the ~~State Docks Department~~ Alabama State Port Authority engaged in railroad service and subject to the provisions of an Act of Congress known as the Railway Labor Act, as amended or as it may hereafter be amended. The services listed as exempt shall in no respect be subject to the provisions of the Act or Rules, anything to the contrary notwithstanding.

4. "Employee" means a person legally occupying a position.

5. "Permanent Employee" means an employee who has satisfactorily completed a working test period of at least six months, and whose permanent appointment has been recommended by the appointing authority.

6. "Permanent Position" means any position in the classified service which has required or is likely to require the services of an employee without interruption for a period of more than 104 work days.

(g) Kinds of Examinations.

1. "Assembled Examination" is a test where applicants are required to assemble in one or more specified places at a

scheduled time for the purpose of taking the test (usually a written test).

2. "Unassembled Examination" is an examination and rating of the applicant's training and experience on the basis of the application he submits and any other required supplementary documents.

3. "Performance Test" is a test where an applicant is required to demonstrate skills ~~in the operation of machinery or equipment~~ used on the job.

~~*Exemption does not apply to employees placed in the classified service in accordance with laws governing the Department of Mental Health and the Department of Youth Services and Board of Corrections.~~

4. "Oral Examination" is an appearance by the applicant before a board rating panel consisting of two or more members who evaluate personal characteristics related to the job.

(h) Separations from Service.

1. "Layoff" is an involuntary separation due to lack of work or funds or the abolition of a position.

2. "Dismissal" is the permanent removal of an employee for cause.

3. "Suspension" is the temporary removal of an employee, up to a maximum of thirty calendar days in any one calendar year, ~~for cause.~~

4. "Resignation" is the voluntary separation of an employee.

5. "Separation during probation" is the removal of a probationary employee prior to receiving permanent status.

6. "Job abandonment" consists of three days of unexcused, unreported absences.

7. "Retirement" is the withdrawal from active State service with a retirement allowance or optional benefit.

Author:

Statutory Authority: Code of Ala. 1975, §§ 36-26-1, et seq.; § 36-27-1(19).

History: Filed September 29, 1981. **Amended:** March 19, 2015, effective_____.