

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. _____ Department or Agency State Personnel Board

Rule No. 670-X-9

Rule Title: Personnel Selection Procedures

_____ 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 Jaclie 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-9
PERSONNEL SELECTION PROCEDURES**

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670-X-9-.01 Applications And Examinations.

(1) Notice of Examinations. Examinations for entrance to the classified service shall be conducted on an open-competitive basis. When unassembled examinations are to be given, this fact shall be determined by the Director after consultation with the appointing authorities concerned. The Director shall give public notice of all entrance examinations at least two weeks in advance of the closing date for receiving applications and shall make every reasonable effort to attract qualified persons to compete in the examinations. Notice of examinations may be posted in important centers throughout the state, and copies may be sent ~~public officials, newspapers, educational institutions, professional and vocational societies, and such~~ to other individuals and organizations as the Director may deem expedient. The public notice of examination shall specify the title and salary range of the class of positions, typical duties to be performed, the minimum qualifications required, the final date on which applications will be received, the relative weights to be given to different parts of the examination, and all other pertinent information and requirements consistent with the provisions of these rules.

(2) Filing Application. All applications shall be made on forms prescribed by the Department and must be filed with the ~~State Personnel~~ Department prior to the close of business on the closing date specified in the announcement ~~or soon enough thereafter to allow time for review and scheduling of any tests involved.~~ Such application may require information covering personal characteristics, education, experience, references, and other pertinent information. All applications shall be signed and the truth of the statements contained therein certified by such signatures by penalty of perjury. Applicants must meet the minimum qualifications specified in announcements as to

education and experience, but in no case shall admittance to the examination constitute assurance of ~~a passing grade in education and experience~~ placement on the register.

(3) Disqualification of Applicants. The Director may refuse to examine an applicant, or after examination disqualify such applicant, or remove his name from the register, or refuse to certify any eligible on a register, (1) who is found to lack any of the preliminary requirements established for examination for the class of positions; (2) who is so physically disabled as to be rendered unfit for the performance of the duties of the class of positions; (3) who is addicted to the habitual excessive use of intoxicating liquors or drugs; (4) who has been convicted of a crime involving moral turpitude, or guilty of notoriously disgraceful conduct; (5) who has intentionally made false statement of material fact in his application; (6) who has previously been dismissed from the state service for delinquency; (7) who has used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment; (8) who has directly or indirectly obtained information regarding examinations to which as an applicant he is not entitled; (9) who has failed to submit his application correctly or within the prescribed time limits; (10) who has a reputation for deliberately failing to pay just debts; (11) or who has otherwise violated provisions of the Act or these rules. A disqualified applicant shall be given written notice of such action and the opportunity to respond to said notice. This removal from any and all registers is for a period of five years.

(4) Character of Examinations. Examinations shall be practical in nature, constructed to reveal the capacity of the candidate for the particular class of positions for which he is competing and his general background and related knowledge, and shall be rated impartially.

(5) Conduct of Examinations. Examinations shall be conducted in as many places in the state as are found convenient for applicants and practicable for administration.

(a) The Director may designate monitors in various parts of the state to take charge locally of examinations under instructions prescribed by ~~him~~ the Director, provide for the compensation of such monitors, and make arrangements

for the use of public buildings in which to conduct the examinations.

(6) Rating Examinations. In any examination, the minimum rating or standing through which eligibility on a register may be earned shall be determined by the Director. Such final rating shall be based upon a weighted average of the various parts of the total examination. All applications for the same class of positions shall be accorded uniform and equal treatment in all phases of the examination procedure. Failure in one phase of an examination may be grounds for the Director to declare the applicant as failing the entire examination or to disqualify him for subsequent parts of the examination.

(7) Rating Education and Experience. When the rating of education and experience forms a part of the total examination, the Director shall determine a procedure for the evaluation of the education and experience qualifications of the various candidates. The formula used in appraisal shall give due regard to ~~regency~~ recency and quality, as well as quantity, of experience and the pertinency of the education. This procedure may allow for the substitution of education for experience and of experience for education. Before rating education and experience or prior to certification from the register, the Director may investigate the candidate's work history and educational record for the purpose of verifying the statements contained in his application form. If the results of this investigation bring out information affecting the rating of education and experience, the Director may rate the candidate accordingly or make the necessary revision of the rating and so notify the candidate or may remove his name from the register. If the candidate provides false credentials, he will be barred from placement on any register for a period of five years.

(8) Oral Examinations. When an oral examination forms a part of the total examination for a position, the Director shall appoint one or more oral examination ~~boards~~ panels as needed. An oral examination ~~board~~ panel shall consist of two or more members who shall be known to be interested in the improvement of public administration and in the selection of efficient government personnel, of whom one shall be technically familiar with the character of work in the position for which the applicants will be examined. No person who is an officer or committee member of, or

actively engaged in the work of a political party organization shall serve as a member of such board panel. Whenever practicable, all candidates for the same class of positions who qualify for the oral examination shall be rated by the same oral examination board panel. A member of an oral examination board panel shall disclose each instance in which he knows the applicant personally and may refrain from rating such applicant.

(9) Preference Given to Veterans, Wives of Veterans and Widows of Veterans. All persons honorably discharged from the Army, Navy, Marine Corps, Air Force or Coast Guard, after serving in the armed forces of the United States, shall have five points added to any earned rating they achieve in an examination for entrance to the classified service. Persons who have established veteran's status as defined above and who, in addition, establish by official records of the United States the present existence of a service connected disability and because of disability are entitled to pension compensation or disability allowance under existing laws, and widows of such persons and qualified wives of such persons who are themselves not qualified because of service connected disability shall have 10 points added to any earned rating they achieve in an examination for entrance to the classified service.

(10) Notice of Examination Results. Each competitor shall be notified ~~by mail~~ of his final rating as soon as the rating of the examination has been completed and the register established. Eligibles shall be entitled to information concerning their relative position on the register, upon request and presentation of proper identification, but registers are confidential and shall not be open to public inspection.

(11) Adjustment of Errors. A manifest error in the marking scoring of an examination, if called to the attention of the Director within thirty days after ~~receipt by the applicant~~ of the notice of examination results, shall be corrected by the Director, provided, however, that such correction shall not invalidate any certification and appointment previously made.

Author:

Statutory Authority: Code of Ala. 1975, §36-26-15.

History: Filed September 29, 1981. **Amended:** Filed May 24, 1985. **Amended:** March 19, 2015, effective _____ .

670-X-9-.02 Registers.

(1) Employment Register. After each examination, the Director shall prepare an employment register of names of persons with passing grades. The names of such persons shall be placed on the register in the order of their final ratings, starting with the highest. Whenever two or more applicants have final ratings which are identical they shall be given the same standing on the register. Whenever it is appropriate to open a class on a continuous basis, the Director may combine the existing list with the new list for the same class by arranging all the eligibles in the order of ratings received, without regard to the time of the examination.

(2) Promotional Register. The Director shall hold competitive promotional examinations which shall be open only to persons in the classified service who have ~~held for six months permanent status or more in a positions~~ classification which are is determined by the Director to be within the lines of promotion to the class of positions for which the examination is held. Service ratings shall be a factor in promotional examinations. After each promotional examination, the Director shall prepare and keep available a promotion list of persons whose final rating in the examination is not less than the passing grade established by the Director, and arranged in order of ratings received. ~~Whenever it is necessary to hold a subsequent examination in order to obtain additional eligibles for a promotion list, the Director may combine the existing list with the new list for the same class by arranging all the eligibles in the order of ratings received, without regard to the time of examination.~~ When the work in a department is of a peculiar specialized nature ~~or for any other reason it can be established that it is practicable to do so,~~ a promotion list may be confined to employees of a particular department at the discretion of the Director.

(3) Reemployment Register.

(a) In Case of Resignation. Any person who has held a permanent appointment in the classified service from which he has resigned in good standing shall be entitled to have his name placed on a reemployment list for certification to vacancies in the classified service same, comparable or previous classification, providing he so requests in

writing. The name of each such person shall be placed on the reemployment list considered most appropriate by the Director. Each name placed on a reemployment list shall remain thereon for a period not longer than two years from the effective date of resignation. Provided, however, that the Director may extend this period one year at a time for not more than two additional years upon the presentation in writing of satisfactory evidence that the former employee has, through appropriate training or experience, maintained his qualifications for the work involved. Before approving such an extension, the Director may make any investigation or order such qualifying test as may appear desirable, ~~including physical examination.~~

(b) In Case of Layoff. Names of all persons laid off shall be placed on a layoff reemployment register in accordance with the rules found in Rule 670-X-18-.01. Any person appointed from a layoff reemployment register shall be required to serve a probationary period of not ~~more~~ less than three months on the job before being restored to permanent status. This requirement will not apply in the case of reemployment of an employee in a department and job where he has been laid off. A probationary employee that was separated during his probationary period due to a layoff is added to the reemployment list and, if an appointment is made, he must serve the remainder of his probationary period.

(4) Duration of an Employment Register. ~~The life of the employment register shall normally be one year from the date of its establishment, but this period may be reduced or extended by the Director. When an employment register expires, it expires in its entirety, and no name shall be transferred to another register.~~ A register is valid until it is replaced or abolished. This rule shall not be construed as prohibiting the holding of continuously open examinations where the needs of the service and the availability of qualified applicants indicates the need for such examinations. In such cases, names of applicants shall be placed on registers as they are examined in the order determined by their grades, without regard to the time of examination. The Director shall be responsible for determining the adequacy of present registers and for the establishment and maintenance of appropriate registers for all classes of positions in the classified service.

(5) Removal of Names from the Register.

(a) The Director may remove the name of an eligible from the register for any of the causes stipulated in Rule 670-X-9-.01, Paragraph 3, or he may remove a name if the eligible cannot be located by postal authorities or if:

1. The eligible indicates in writing that he no longer desires to be considered for state employment7.
2. He declines three offers of positions in the class for which the register was established7.
3. He has been certified for appointment three times to different appointing authorities or three times to the same appointing authority where the classification is peculiar to less than three departments, and has not been appointed.

(b) The person affected shall be notified of this action and the reasons therefore, unless his whereabouts are unknown. The name of an eligible may be restored to a register only if satisfactory explanation of the circumstances leading to its removal can be made to the Director. Failure of any eligible to notify the Personnel Department of a change of address shall be regarded as just cause for removal of his name from the register until such time as the change of address has been duly filed. The Director may remove the name of an eligible from a register if the eligible fails to reply within 48 hours after receipt of a certified mail letter inquiring as to his availability for immediate appointment. After an eligible is appointed to any permanent position in the state service, his name may be ~~removed from registers~~ placed inactive for all positions for which the maximum salary is the same or less than that of the class of position to which he has been appointed. The name of an employee who is dismissed, or whose separation from the service otherwise fails to constitute a separation in good standing, shall be removed by the Director from all eligible registers for classes that occur exclusively in the department terminating his employment. ~~He may also be removed from registers for comparable or higher classes affecting other departments. Before such action is made final, the Director shall notify such employee and offer him a reasonable opportunity to answer any charges made against him and to justify his retention on any or all lists where his name appears.~~

Author: Halycon Vance Ballard

Statutory Authority: Code of Ala. 1975, §§36-26-9, 36-26-15, 36-26-17, 36-26-23.

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

670-X-9-.03 Certifications And Appointments.

(1) Types of Appointments. All vacancies in the classified service shall be filled by transfer, promotion, demotion, original appointment, reemployment, temporary appointment, emergency appointment, exceptional appointment, provisional appointment, direct appointment or conditional appointment as provided in the Act.

(2) Appointments from Eligible Lists.

(a) Request for Certification. Whenever a vacancy in a position in the classified-service is to be filled other than by transfer, demotion, direct appointment, emergency appointment or extraordinary appointment, the appointing authority shall make written request for certification of names on a form prescribed by the Director. This form shall contain a statement of the class title of the position, together with such other pertinent information as may be required by the Director. The appointing authority shall make such request a reasonable time in advance of the date the new employee is to begin work.

(b) Certification of Eligibles. When a request for certification of eligibles is received by the Director, he shall certify the highest ten eligibles on the most appropriate employment register plus the names of all those whose grades are tied with the tenth highest eligible, and if more than one vacancy is to be filled the name of one additional eligible for each additional vacancy. At the request of the appointing authority, preference in certification may be given to eligibles who have been legal residents of the State of Alabama for at least twelve months prior to the date the register was established. If it should prove impossible to locate any of the persons so certified, or if it should become known to the Director that any person is not willing to accept the position, the appointing authority may request that additional names be certified until the correct number of persons eligible and available for appointment has been certified. The appointing authority shall select one from those certified

to fill the vacancy. "An appointing officer who passes over ~~a~~ an eligible veteran eligible and selects a non-veteran with the same or lower rating shall file with the Director the reasons for so doing."

(3) Extraordinary Appointments.

(a) Temporary Appointments. When the service to be rendered by an appointee is for a temporary period not to exceed 104 work days, and the need of such service is important and urgent, the Director may select for such temporary service any person on the proper eligible register without regard to his standing on such register. Successive temporary appointments to the same position or of the same person shall not be made under this provision. Acceptance or refusal by an eligible of such temporary appointment shall not affect his standing on the register, nor shall a period of temporary service be counted as part of the probationary service in case of subsequent appointment to a permanent position, nor shall it confer upon him any privilege or right or promotion, transfer, or reinstatement to any position in the classified service.

(b) Emergency Appointments. When an emergency arises such that, in order to prevent loss of public property or serious inconvenience to the public, one or more persons must be immediately employed without taking time to secure certification from the Director of the names of eligible persons, an appointing authority or subordinate officer or employee designated by him may appoint any qualified person during the period of the emergency but not for a period exceeding ten days. No vacancy in a permanent position caused by a resignation of which the appointing authority has had reasonable notice shall be considered an emergency. The appointing authority or his authorized agent shall as soon as possible report to the Director any emergency appointment giving name of appointee, rate of pay, probable length of employment, nature of emergency, and nature of duties performed. Separation from service of an emergency appointee shall likewise be reported. No emergency appointment may be renewed. The Director shall have the right to make such investigation as he deems necessary to determine whether an emergency actually exists.

(c) Exceptional Appointments. Whenever there is a vacancy in a position in the classified service where peculiar and exceptional qualifications of a scientific, professional,

or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable and that the position can best be filled by the selection of some designated person of high and recognized attainments in such qualities, the ~~Personnel~~ Board upon recommendation of the ~~Personnel~~ Director may suspend the examination requirements in such case, but no suspension shall be general in its application to such place or position, and all such cases of suspension shall be reported in the annual report of the Department with the reasons for such action in each case.

(d) Provisional Appointments. Whenever it is impossible to certify eligible persons for appointment to a vacancy in the classified service, the appointing authority may nominate a person to the Director. If such nominee is found by the Director to have had experience and training which appear to qualify him for the position, the Director may authorize the appointment of such person to such vacancy only until an appropriate register can be established and appointment made therefrom. When the register is established, the Director will certify a certificate of eligibles for the requested classification. In no event shall a provisional appointment be continued for more than 156 work days. Successive provisional appointments of the same person shall not be made. Time in service as a provisional appointment does not count toward the probationary period.

(e) Conditional Appointments. Any position to be filled due to circumstances requiring limited tenure, such as federal grant funding or substitution for an employee on extended leave without pay, can be made on a conditional basis requiring the vacating of such position by the incumbent upon expiration of the special conditions which authorized it, without further notice, process, or applicability of layoff procedures.

(f) Direct Appointment. The Director, ~~subject to the approval of the Board,~~ may designate certain job classes involving unskilled or semi-skilled work to which appointing authorities may make direct appointment of persons who meet the appropriately validated minimum qualifications prescribed for the designated class and the character of the work performed by these jobs is to be such as to make normal examination difficult. Observed job

performance is the only practical measurement of success for these positions.

1. Persons A person wishing to apply will submit ~~their~~ a State application form directly to a prospective appointing authority in the manner prescribed by such authority. The appointing authority will determine if the applicant meets the established minimum qualifications, and shall choose among the qualified applicants in any suitable method which the appointing authority may wish to adopt. In making such choice, the appointing authority should be aware of the necessity for preferential consideration to veterans who are equally or higher qualified than a non-veteran applicant (Section 36-26-15). If the non-veteran is chosen in such situations, the appointing authority shall maintain in its records a letter stating the reasons for non-selection of the veteran.

2. The direct appointment shall be transmitted to the State Personnel Department and will be accepted by the Director after verification that the appointee meets the established minimum qualifications. The appointee shall serve a probationary period in the same manner as persons appointed after certification (see Rule 670-X-10) and will obtain permanent status in the classified service if, at the end of the Probationary Period, notice is sent to the Director that the appointee will be continued in his position as required by section 36-26-21(c) of the Act.

(g) Limited Tenure. An appointing authority may request of the Director that certain job classes involving specialized training be designated as limited tenure positions. Persons that meet the appropriately validated minimum educational qualifications prescribed for the designated job class may be appointed. The duration of the limited tenure appointment will be established by the Director.

1. A person wishing to apply must submit a State application to the prospective appointing authority. The appointing authority will determine if the applicant meets the established minimum education requirement, and shall choose among the qualified applicants in any suitable method which the appointing authority may wish to appoint.

2. The limited tenure appointment shall be transmitted to the State Personnel Department and will be accepted by the

Director after verification that the appointee meets the established minimum education requirement.

(4) Appointments to Unskilled and Custodial Positions. Any appointing authority who has under his jurisdiction positions in the classified service involving unskilled or semiskilled labor or domestic work, or custodial work, when the character or place of the work makes it impracticable to supply the needs of the service by appointments made in the usual manner required by the Act, may request the Director for permission to fill such positions by appointment of persons meeting the minimum qualifications prescribed for the classes of positions in the classification plan. Prior to approval of each request for permission to use this procedure, the Director shall thoroughly investigate all circumstances and, if he approves the request, shall prescribe such administrative regulations and procedures as will ensure appointments on the basis of merit and fitness. Persons so appointed shall have no status in the classified service and shall not be entitled to any of the privileges of leave as provided in these rules for permanent employees in the state service. Wherever practicable the Director shall provide the selections in these classes to be made on some kind of competitive basis, and shall require prescribed procedures to be followed.

Authors: Halycon Vance Ballard, Thomas G. Flowers

Statutory Authority: Code of Ala. 1975, §§ 36-26-9, 36-26-15, 36-26-17, 36-26-18, 36-26-19.

History: Filed September 29, 1981. **Amended:** Filed February 28, 1991. **Amended:** Filed November 25, 1998; effective December 30, 1998. **Amended:** March 19, 2015, effective .

670-X-9-.04 Selection From Within.

(1) Promotions. Within the discretion of the Director, vacancies in classified positions shall be filled, insofar as practicable, by promotion from among regular employees holding positions in the classified service. Promotion shall be based upon merit and competition and shall be made in accordance with the procedures established by those sections of these rules dealing with promotional appointments.

(2) Transfers. An appointing authority may, at any time, assign a classified employee under his jurisdiction from one position to another in the same class or comparable class determined by the Director. Any classified employee may be transferred from a position in one department to a position in the same class in another department, provided that the Director has authorized the transfer and has received approval of both appointing authorities concerned. In every case involving transfer, the appointing authority shall submit a written request to the Director. A transfer from a position in a lower classification to a position in a higher classification in the same series shall be deemed a promotion and shall be made in the manner provided by the rules for promotional appointment. A transfer from a position in a higher classification to a position in a lower classification shall be deemed a demotion and the procedures established by these rules for effecting a demotion shall apply. In the case of a transfer of an employee from one department to another, the attention of both appointing authorities shall be called to the leave status and seniority for employment of the employee. If the appointing authority to whose department the transfer is proposed is unwilling to accept the transfer with accumulated leave, the employee must use or lose such leave accumulated prior to the transfer, ~~if it is made~~.

~~(3) Demotions. An appointing authority, upon giving notice stating reasons to the Director and to the employee, may, with the approval of the Director, demote a classified employee under his jurisdiction from a position in one class to a position in a lower class in the same series. This written notice of intention to effect a demotion shall be given a reasonable time, depending upon the circumstances involved, before the date it is intended that it shall become effective. The Director shall make such investigation of the circumstances as he may consider necessary and then, not later than ten days after the receipt of the notice of the intention to demote the employee, shall either approve the demotion, approve the transfer of the employee to a position under the jurisdiction of another appointing authority, or order a hearing before the Board or a hearing examiner to determine the merits of the proposed action. If a hearing is ordered, the demotion shall not become effective until it has been ordered by the Board or hearing examiner. A transfer under such circumstances shall be approved by the Director and the appointing authority having jurisdiction over the~~

~~position to which the employee is to be transferred, but not necessarily by the appointing authority intending to effect the demotion.~~

An appointing authority may demote a classified employee under his jurisdiction from a position in one class to a position in a lower class in the same series or comparable classification as authorized by the Director. The appointing authority must give written notice which states the reasons for the demotion to the employee. The employee must be afforded a due process hearing prior to the implementation of the demotion. The employee may, within ten days, appeal the appointing authority's decision to the Director for review.

(4) Appointment of Classified Employee to Unclassified and Exempt Service. A classified employee who is appointed to fill a position in the unclassified service shall, at the conclusion of his occupancy of such position, resume his previous status in the classified service. ~~A classified employee appointed to a position in the exempt service may, when such appointment expires, likewise resume his position in the classified service, at the discretion of the appointing authority concerned. Such employee shall earn and use annual and sick leave on the same basis as employees in the classified service and shall be credited with any balances of such leave upon the resumption of their classified employment.~~ Employees appointed to the unclassified service will accrue and use leave in the same manner as classified employees. Employees appointed to the exempt service will not earn leave. Any accumulated leave will be frozen and paid upon separation from State service.

Author:

Statutory Authority: Code of Ala. 1975, §§36-26-10, 36-26-23, 36-26-24, 36-26-25.

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