

ALABAMA STATE PERSONNEL BOARD  
ALABAMA STATE PERSONNEL DEPARTMENT  
ADMINISTRATIVE CODE

CHAPTER 670-X-1  
ORGANIZATION

TABLE OF CONTENTS

|             |   |
|-------------|---|
| 670-X-1-.01 | Merit System Law  |
| 670-X-1-.02 | Purpose of Law  |
| 670-X-1-.03 | State Personnel Department: Composition,<br>Executive Head, Offices           |
| 670-X-1-.04 | State Personnel Board: Appointments,<br>Qualifications, Removal, Compensation |

Under and by virtue of the power and authority vested in me and as Personnel Director for the State of Alabama (Code of Ala. 1975, Title 36, Chapter 26), I do hereby promulgate the following rules and regulations heretofore duly adopted by the Alabama State Personnel Board and the Governor of the State of Alabama.

**670-X-1-.01 Merit System Law.** The Merit System Law was passed on March 2, 1939.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-1.

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

**670-X-1-.02 Purpose of Law.** To assure to all citizens of demonstrated capacity, ability and training an equal opportunity to compete for service with the State of Alabama, to establish conditions in the state service which will attract officers and employees of character and capacity and to increase the efficiency of the governmental departments and agencies by the improvement of methods of personnel administration.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-3.

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

**670-X-1-.03 State Personnel Department:**

**Composition, Executive Head, Offices.** The Merit System Law provides for a State Personnel Department with a State Personnel Board and a State Director of Personnel, with the Director as head of the department. The law also ~~provided~~ provides for offices to be located in the City of Montgomery as headquarters of the ~~department~~ Department.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-4.

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

**670-X-1-.04 State Personnel Board:**

**Appointments, Qualifications, Removal, Compensation.**

General.

(a) Appointment. The Personnel Board consists of five persons who serve six-year staggered terms. Two persons are appointed by the Governor, one by the ~~lieutenant-governor~~ Lieutenant Governor, one by the ~~speaker~~ Speaker of the ~~house~~ House of ~~representatives~~ Representatives, and one is a classified employee elected by a majority vote of full-time state employees. Each member is required to take the constitutional oath of office before entering upon his duties. One member is designated by the Board to serve as chairman. Three members constitute a quorum for the transaction of business<sub>7</sub>. ~~and any~~ Any vacancy in the membership is filled by the original appointing authority, except the elected member seat, for the unexpired term.

(b) Qualifications. Each member must be a person over 19 years of age, of recognized character and ability, must have been a bona fide resident and a qualified voter of Alabama for not less than five years, and must not, when appointed nor for three years then last past before the date of his appointment, have held elective public or party office nor have been a candidate for such office. No two members can be appointed from any one congressional district of the state.

(c) Removal. A member of the Board may be removed from office for the same causes and by the same procedure as provided by the Constitution and statutes of Alabama for the impeachment of sheriffs.

(d) Compensation. Each member of the Board receives a per diem of \$50.00 and expenses for attendance upon meetings of the Board. No member can receive total compensation in excess of \$1,200.00 per annum, excluding expenses and compensation received for attendance upon trials of charges preferred against employees as provided in the Law.

(e) Election requirements. Two months prior to the expiration of the seat for the member of the classified service, employees desiring to serve shall file with the ~~state comptroller~~ State Comptroller notice of their intent to run for the position.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 36-26-5, 36-26-27-, 36-1-11, et. seq.

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

**CHAPTER 670-X-2  
APPLICATION OF POLICY AND RULES**

**TABLE OF CONTENTS**

**670-X-2-.01 Application of Policy and Rules**

**670-X-2-.01 Application of Policy and Rules.** These rules shall apply to all positions in the classified service. They shall also apply to positions in the unclassified service except as to appointment and dismissal.

(a) Amendments to the rules may be made by the Board from time to time as circumstances and conditions may require when recommended by the Director and approved by the Board after public hearing. If the Board fails to approve or reject amendments recommended by the Director wholly or in part or with modifications after thirty days from date of recommendation, they shall be deemed as having been adopted. Provided, however, that such amendments shall not become effective until approved by the Governor (or on the tenth day after they are submitted to him if prior thereto he shall not have rejected them).

(b) The Director shall promulgate and, as occasion requires, rescind, or amend administrative regulations which shall prescribe the detailed procedures to be followed in carrying out these rules.

**Author:**

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

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

**CHAPTER 670-X-3  
DEFINITIONS**

**TABLE OF CONTENTS**

**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 no~~t~~ 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 ~~Register~~List" 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\_\_\_\_\_.

CHAPTER 670-X-4  
PROHIBITION OF DISCRIMINATION

TABLE OF CONTENTS

- 670-X-4-.01 Prohibition of Discrimination
- 670-X-4-.02 Affirmative Action
- 670-X-4-.03 Appeal Rights

**670-X-4-.01 Prohibition Of Discrimination.** Discrimination against any person in recruitment, examination, appointment, training, promotion, retention or any other personnel action, because of race, sex, national origin, age, ~~handicap~~ disability, or any other statutorily protected nonmerit factor, is prohibited.

**Author:**

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

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

**670-X-4-.02 Affirmative Action.** All agencies having classified employees shall ~~adopt, maintain and actively enforce affirmative action plans to encourage diverse employment of women and minorities~~ at all levels and in all areas of state employment.

**Author:**

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

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

**670-X-4-.03 Appeal Rights.** Any applicant or employee who has reason to believe that he has been discriminated against because of religious or political opinions or affiliations or race, sex, national origin, age, or ~~handicap~~ disability, or any other statutorily protected nonmerit factors in any personnel action may appeal to the State Personnel Board. The appellant and the person responsible for the alleged discriminatory action shall have the right to be heard by the Board or a special hearing agent and to present evidence. If the Board finds after hearing that there was discrimination on any of the above nonmerit factors, it shall order appropriate corrective action and its decision shall be final.

**Author:**

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

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

CHAPTER 670-X-5  
STATE PERSONNEL BOARD:  
MEETINGS, MINUTES AND HEARING PROCEDURE

TABLE OF CONTENTS

670-X-5-.01 Regular Meetings  
670-X-5-.02 Special Meetings  
670-X-5-.03 Public Meetings  
670-X-5-.04 Rules of Order  
670-X-5-.05 Quorum  
670-X-5-.06 Minutes  
670-X-5-.07 Appeals to The Board  
670-X-5-.08 Hearings Procedure  
670-X-5-.09 Re-Hearings

**670-X-5-.01 Regular Meetings.** Regular meetings of the Board shall be held monthly, ~~on the second Wednesday of each month,~~ in the offices of the Department, provided that the chairman may change the date or location of any meeting when deemed necessary, in accordance with the Open Meetings Act.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-6.

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

**670-X-5-.02 Special Meetings.** Special meetings of the Board may be called by any member, by the Governor, or by the Director upon giving ~~reasonable advance notice in writing to each member of the Board and the Director~~ such notice as required by the Open Meetings Act.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-6.

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

**670-X-5-.03 Public Meetings.** All regular meetings of the Board shall be open to the public.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-6.

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

**670-X-5-.04 Rules of Order.** Meetings of the Board may be informal, subject to such rules of order as may be promulgated by the chairman of the Board. A member of the Board may record in the minutes his approval of or dissent from any act of the Board, together with his reasons therefor, if so desired.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-6.

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

**670-X-5-.05 Quorum.** ~~Two~~ Three members of the Board shall constitute a quorum for the transaction of business.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-5.

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

**670-X-5-.06 Minutes.** The Director shall attend all meetings of the Board, act as its secretary, and records its official actions in the minutes. The time and place of each meeting of the Board, names of the Board members present, all official acts of the Board, the votes of each Board member except when the acts are unanimous, and when requested a Board member's dissent, with his reasons if so requested, shall be recorded in the minutes. ~~The Director shall cause the minutes to be transcribed and presented for approval or amendment at the next regular meeting. The minutes or a true copy thereof, certified by a majority of the Board,~~ shall be open to public inspection.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 36-26-8, 36-26-9.

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

**670-X-5-.07 Appeals To The Board.**

~~(1) Any officer, employee or citizen who feels that the rules are working or are apt to work an unnecessary hardship upon him, or that the efficiency of the state service can be improved by amendment of the rules may appear before the Board at any of its regular meetings and shall have the right to a complete hearing upon the matter provided that a request for a hearing on such a matter must be filed in writing with the Director at least five days prior to the Board meeting. At least six signed copies of such requests must be filed, whereupon it shall be the duty of the Director immediately to transmit a copy of the request to each Board member and to the Governor.~~

If an officer, employee or citizen feels that any of these rules are working or apt to work a hardship upon him, or that the efficiency of state service may be improved by an amendment to these rules, then the person may request a hearing upon the matter and then appear before the Board at its regular meeting. This written request will be made to the Director.

(2) The Board shall, if demand is made in writing by an employee within ten days after notice of discharge, order a public hearing. The hearing shall be before a special agent (hereinafter called Hearing Officer) appointed for the purpose by the Director. ~~The Hearing Officer shall first order a pre hearing conference to crystallize issues, exchange witness lists and documents, and set the date for hearing.~~ The Hearing Officer may enter a default for the agency based upon the employee's failure to prosecute his case should the employee fail to appear. The hearing shall be recorded either by the mechanized means or by a qualified ~~shorthand~~ court reporter. At the hearing, the Hearing Officer shall take testimony offered in support and denial of the reasons for dismissal and from the same submit to the Board a finding of facts and law involved and a recommended decision in the form of a proposed order.

(3) The proposed order shall be furnished to each party. If either party feels he is adversely affected by the proposed order, he may file with the Director exceptions to the proposed order within five days of his receipt thereof. Such exceptions may include a request for presentation of briefs and oral arguments before the Board. The exceptions shall be made a part of the report to be considered by the

Board. ~~Briefs shall be limited to no more than 10 pages, 8 1/2 x 11, double spaced, and shall be delivered to the Director no later than the day preceding the next Board meeting.~~ If a party requests oral argument, he must file written exceptions. Oral argument shall be limited to ten minutes for each side. Should the Board, in its sole discretion, decide to hear the appeal itself, or to read the transcript of the Hearing Officer proceedings, then the provision of this paragraph would not be applicable. The parties, by written stipulation, may waive compliance with this paragraph.

(4) The Board at its next regular or special meeting shall consider said ~~report~~ proposed order and modify, alter, set aside or affirm said ~~report~~ proposed order, and if the charges are proved unwarranted, order the reinstatement of the employee under such conditions as the Board may determine.

(5) In the event funds are not available to retain Hearing Officers and/or court reporters for appeals under the foregoing provisions, the Director shall have the authority to assign any or all appeals for hearing before the Board, which shall follow the hearing procedure authorized in Rule 670-X-5-.08 below where applicable.

(6) An employee in the classified service may also be removed or awarded lesser discipline on the basis of charges filed by any officer, citizen or taxpayer of the state. Within five days of receiving such charges, the Director shall have a copy served on the employee concerned and shall set a public, hearing on the charges not less than ten nor more than twenty days after they are served on the employee. The hearing may be before the Director, a special agent designated by the Director, or the Board itself. If the Director or a special agent hears the matter, he shall, after taking testimony, report to the Board within five days a finding of facts and law and a recommended decision. At its next regular or special meeting, the Board shall consider this report, which it may modify, alter, set aside or affirm. The Board shall then certify its decision to the appointing authority who shall forthwith put it into effect. If the Board hears such charges directly or reviews the record of testimony taken before another, it shall make up and file its own findings and decision.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 36-26-6, 36-26-9, 36-26-27.

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

**670-X-5-.08 Hearing Procedure.**

(1) Conduct of Hearings. Hearings on employee appeals from dismissal and on charges brought against employees shall be open to the public and shall be informal. The employee, the appointing authority, and all others concerned shall be given reasonable notice of the time and place of hearing. The parties shall have the right to have subpoenas issued, present witnesses and give testimony. A hearing before a Hearing Officer is intended solely for the purpose of receiving evidence either to refute or to substantiate specific charges. It shall not be made ~~on~~ an occasion for irresponsible accusations, unrelated attacks upon the character or conduct of the employer or employee or others, or other derogatory matters having no bearing on the charges under investigation. Any request by a party for a Board member or a Hearing Officer as designated by the Board to recuse ~~themselves~~ himself shall be made in writing ~~with to the Director not later than five work days prior to the date upon which the hearing is scheduled~~ immediately. The written request must cite reasons and the legal basis for the recusal. (See Rules 670-X-18-.02 and 670-X-18-.03 for dismissal and suspension procedure.)

(2) Witnesses. The Hearing Officer shall examine the list of proposed witnesses submitted by each of the parties and shall determine the justification for ~~the~~ calling of each witness. Any witness whose testimony is not material, is not relevant or is cumulative of other testimony shall not be required to testify. The Hearing Officer shall examine any objection filed by or on behalf of any witness claiming that the testimony of that witness is not material, is not relevant, is cumulative or if the witness claims a total lack of knowledge of the matter in question. The Hearing Officer shall make a determination of the relevancy, materiality, cumulative nature or lack of knowledge on the part of the witness prior to the commencement of the hearing. The determination to allow or disallow the testimony of a witness shall be based upon an offer of proof by the party offering the testimony of the witness.

(3) Pre-Hearing Conference. The ~~Director shall designate a person~~ Hearing Officer shall ~~to~~ conduct a pre-hearing conference. The ~~person so designated~~ Hearing Officer shall have the authority to require the parties to act in furtherance of the hearing process<sup>+</sup>, to include but not limited to:

- (a) Setting of an appropriate schedule for the conduct of the hearing;
- (b) The crystallization of issues to be presented at the hearing;
- (c) The production of documents;
- (d) The attendance of witnesses;
- (e) The specification of issues and charges;
- (f) To issue a pre-hearing conference order which shall be binding on all the parties and shall be amended only upon a showing of good cause;
- (g) A Hearing Officer may review pre-hearing issues ruled upon at the pre-hearing conference;
- (h) Such other authority as may be necessary for the conduct of the hearing.

(4) Sanctions. Sanctions shall be defined as used in the Alabama Rules of Civil Procedure. The Hearing Officer may recommend to the Board that sanctions be imposed against a party who has:

- (a) Failed to comply with the pre-hearing conference order;
- (b) Failed to appear;
- (c) Failed to prosecute his case;
- (d) Failed to comply with orders issued by the Hearing Officer;
- (e) Acted in bad faith.

(5) Testimony and Evidence. In taking testimony and in considering the evidence, the Hearing Officer shall follow

accepted legal procedure insofar as is practicable, but shall not be bound by the technical ~~rules~~ Rules of evidence Evidence observed in courts of law. The Hearing Officer may listen to hearsay testimony and may accept depositions and affidavits if such testimony is material and relevant to the issues. The Hearing Officer may also accept the results of lie-detector tests, if such results are material and relevant to the issues.

(6) Counsel or Representation. Parties to a hearing before a Hearing Officer may have representatives of their own choosing. In the event they do not choose such counsel or representatives, they may themselves request the issuance of subpoenas, examine and cross-examine witnesses, make statements, summarize testimony, and otherwise conduct their own hearing.

(7) Procedure. A hearing before a Hearing Officer shall be conducted in accordance with the following order:

(a) Reading of the dismissal action or other charges against the employee and of other pertinent information from the employee's record. The record shall be available to all parties for reference in connection with the hearing.

(b) Presentation of charges against the employee, including testimony of witnesses and other evidence. The employee or his counsel and the Hearing Officer may examine the witnesses.

(c) Presentation of the employee's answer to the charges, including testimony of his witnesses. The parties and the Hearing Officer may also examine ~~these~~ witnesses.

(d) Summation by the parties, if desired by them.

(8) Findings and Decisions. On the basis of testimony and evidence and oral arguments and briefs, if any, the Hearing Officer may recommend that the dismissal of an employee be sustained or may recommend his reinstatement with or without loss of pay, less any interim earnings. Where an employee is found guilty of charges brought against him by an officer, citizen, or taxpayer, and such charges warrant disciplinary action, the Board may order the dismissal of the employee or may order lesser penalties. Where an

employee does not appear for his hearing, he has forfeited his right to oral argument before the Board.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 36-26-6, 36-26-7, 36-26-9, 36-26-27.

**History:** Filed September 29, 1981. **Amended:** Filed March 19, 1986; April 23, 1986. **Amended:** March 19, 2015, effective\_\_\_\_\_.

**670-X-5-.09 Re-Hearings.**

(1) The Board shall entertain requests for reconsideration of its decision rendered in an appeal hearing by either party to the hearing if timely submitted within thirty days from the rendition of said decision.

(2) The request ~~should~~ shall only be based upon newly discovered evidence which would justify relief from the decision rendered.

(3) Such requests should include, by written memorandum or brief, the detailed basis for such reconsideration. The opposing party shall have the opportunity to present a written reply memorandum or brief challenging such basis.

(4) The Board shall then review the written reply in executive session, and based upon such review, shall either sustain its previous decision or grant such relief from the decision as may be appropriate. In reviewing the request, the Board, at its sole discretion, may hear further oral argument, hear new testimony, or suggest supplemental responses.

(5) The filing of the request for reconsideration shall be at the option of the parties, and should not be deemed as a prerequisite to, or hindrance of, either ~~parties'~~ party's right to judicial review of a Board decision.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 36-26-6, 36-26-9.

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

**CHAPTER 670-X-6  
RESPONSIBILITIES OF  
THE STATE PERSONNEL DIRECTOR**

**TABLE OF CONTENTS**

|             |  |
|-------------|--|
| 670-X-6-.01 | Departmental Administration                                      |
| 670-X-6-.02 | As Secretary to the State Personnel Board                        |
| 670-X-6-.03 | General Administration   |
| 670-X-6-.04 | Maintenance of Position Classification<br>Structure and Pay Plan |
| 670-X-6-.05 | Administration of Personnel Selection<br>Procedures              |
| 670-X-6-.06 | Training   |
| 670-X-6-.07 | Legislative Liaison  |

**670-X-6-.01 Departmental Administration.**

(1) As executive head of the Department, to direct and supervise all its administrative and technical activities.

(2) To appoint all employees of the ~~Personnel~~ Department except the Director and the members of the Board, and to direct and control their work.

(3) To direct and control, under the customary financial procedures of the state, the expenditures for the Department.

(4) To designate an employee of the Department to act as his deputy, upon whom the powers and duties of the Director shall devolve in the absence of the Director or his inability from any cause to discharge the powers and duties of his office.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-8.

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

**670-X-6-.02 As Secretary To The State Personnel Board.**

(1) To serve as secretary to the Board to see to the keeping of the minutes and records thereof, and in all other proper ways to facilitate the actions and proceedings of the Board.

(2) To prepare and recommend to the Board the rules prescribed in Code of Ala. 1975, § 36-26-9, and any changes deemed desirable from time to time in such rules.

(3) To make such investigations as ~~he~~ the Director may deem desirable with respect to the enforcement and effect of the Act and of these rules, and such special investigations as the Board may request and make special reports relative thereto.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-8.

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

**670-X-6-.03 General Administration.**

(1) To establish and maintain a roster of all state employees showing as to each employee the class title of the position held, the salary or pay, any change in class title, pay or status, and any other necessary data.

(2) To make such administrative regulations as ~~he~~ the Director may deem necessary not inconsistent with the Act and these rules, relative to matters involved in the administration of the personnel provisions of the Code.

(3) To administer and enforce the provisions of the Act and of these rules, subject to these rules and to appeal and review by the Board.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-8.

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

**670-X-6-.04 Maintenance of Position Classification Structure And Pay Plan.**

(1) To allocate each classified position to its appropriate job class in the classification structure, and to reallocate positions as conditions warrant, from job class to job class.

(2) To devise and recommend to the Board a compensation plan consisting of ~~scopes of pay for the several classes in due relation to each other and to rates prevailing for like employment in private industry,~~ salary ranges, with classes assigned to ranges based on internal comparisons, private industry and/or other governmental entities, rules for the interpretation and application of the plan, and changes in such plan and rules from time to time as deemed desirable.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-8.

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

**670-X-6-.05 Administration of Personnel Selection Procedures.**

(1) To hold examinations, ~~pass-upon~~ evaluate the qualifications of applicants, and to establish registers as needed, and to certify names of eligibles to appointing authorities for filling vacancies in the classified service.

(2) To retain, for purposes of assisting in the examination and scoring of candidates ~~for positions of higher responsibility and positions requiring unusual qualities or qualifications,~~ the services of persons, without regard to their residence, who because of their experience or for other reasons have special acquaintance with the qualities or qualifications requisite for the positions under examination.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-8.

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

**670-X-6-.06 Training.** To cooperate with appointing officers and others in providing programs of training for employees, for employee welfare and improvement, for promoting employee morale, and for otherwise raising of standards of performance in the service in every practicable way.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 36-26-8, 36-26-20.

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

**670-X-6-.07 Legislative Liaison.** ~~To provide the Governor, the Legislature and the Board with estimates of the costs of any salary and benefit improvements that are under consideration.~~ To make such investigations pertaining to personnel, salary scales, and employment conditions in state service as may be requested by the Board, the Governor, or the Legislature.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-8.

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

**CHAPTER 670-X-7  
POSITION CLASSIFICATION PLAN**

**TABLE OF CONTENTS**

670-X-7-.01 Maintenance  
670-X-7-.02 Revision of the Plan  
670-X-7-.03 Uses of the Classification Plan  
670-X-7-.04 Allocation of Positions to Classes  
670-X-7-.05 Allocation of New Positions  
670-X-7-.06 Reallocations

**670-X-7-.01 Maintenance.**

(1) The Director shall administer and maintain the classification plan in accordance with the ~~state merit system law~~ State Merit System Law, such approvals required by the Board or the Governor, and these rules.

(2) The classification plan shall be maintained on a current basis by the timely establishment and abolition of classes, the allocation and reallocation of positions, and the periodic review of all positions and classes within the plan shall be accomplished every five years, either by instituting a program to ensure that approximately 20% of covered positions are reviewed each year; or causing a statewide review of all positions and classes at least once every five years.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-11.

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

**670-X-7-.02 Revision Of The Plan.** Existing classes ~~or positions~~ may be abolished or changed or new classes added on recommendation of the Director and favorable vote of the Board in a ~~regular~~ meeting. New classes and pay range changes must be approved by the Governor.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-11.

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

**670-X-7-.03 Uses Of The Classification Plan.** All provisions of the plan shall be observed in the handling of personnel activities and transactions. The titles assigned to positions by their allocation to the classes established by the classification plan shall be used in all personnel, accounting, ~~and~~ financial records, and communications of all state departments. Working titles ~~Titles~~ used in the course of departmental routine to indicate authority, status in the organization, or administrative rank may be continued in use for these purposes.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-11.

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

**670-X-7-.04 Allocation Of Positions To Classes.** Every position in the state service shall be allocated to one of the classes established by the classification plan. Those positions which are substantially similar with respect to difficulty, responsibility, and character of work, require generally the same kind and amount of training and experience for proper performance, and merit approximately equal pay shall be allocated to the same class. The class specifications for the ~~several~~ classes series in the service shall be considered in allocating positions to classes and shall be interpreted as follows:

(a) Class specifications are descriptive only and are not restrictive. The use of a particular expression of duties, qualifications, requirements, or other attributes shall not be held to exclude others not mentioned if such others are similar as to kind or quality.

(b) In determining the class to which any position shall be allocated, the specifications for each class shall be considered as a whole. Consideration is to be given to the general duties, specific tasks, responsibilities required, qualifications and relationships to other classes as affording together a picture of the positions that the class is intended to include.

(c) Class specifications shall be construed as a general description of the kinds of work characteristic of positions ~~properly to be~~ allocated to ~~that~~ a class and not

as prescribing what the duties of any position shall be, nor as limiting the expressed or implied power of the authority now or hereafter vested with the right to prescribe or alter the duties of any position.

(d) The fact that the actual tasks performed by the incumbent of a position do not appear in the specification for the class to which the position has been allocated shall not be taken to mean that the position is necessarily excluded from the class. Nor shall any one example of a typical task taken without relation to the parts of the specification be construed as determining that a position should be allocated to the class.

(e) The statement of ~~minimum qualifications~~ compensable factors expresses the minimum background in terms of education and experience which would likely be required of any new appointee to a position in the class as evidence of his ability to perform the work properly, and is to be so construed and not as imposing in itself any new or additional requirements upon incumbents of positions. Although they may not be expressed, such qualifications as should properly be required of incumbents of all or any positions, such as ~~good physical condition, freedom from disabling defects, citizenship, suitable age, honesty, security clearance,~~ sobriety and industry, are taken for granted.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-11.

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

**670-X-7-.05 Allocation Of New Positions.** When new positions are created in any department, complete job descriptions shall be furnished to the Director by the department, and he shall study the duties and responsibilities of the new position and determine the proper classification. If any appropriate classification does not already exist he shall prepare a new class specification and submit it to the Board for approval ~~at its next regular meeting.~~

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-11.

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

**670-X-7-.06 Reallocations.**

(1) An appointing authority shall report to the Director the addition of new essential assignments or the taking away of old essential ones. The Director shall investigate such changes in order to provide a basis for determining the effect on the classification of the position.

(2) The Director shall, on his own initiative, make periodic investigations of any and all positions in order to determine changes in duties and responsibilities of positions as a basis for keeping the classification plan up-to-date.

(3) An employee may at any time make a request in writing to the Director for a review of the description of his position. The request shall set forth the employee's reasons for the review and must be substantiated by his supervisor and the ~~department head~~ appointing authority. If such reasons appear to be substantial, the Director shall make an investigation of the position with a view to determining the correctness or incorrectness of the allocation and the adjustment necessary.

(4) When it is found by any of the methods outlined above that a position is not in the most appropriate class, the Director shall reallocate it to the most appropriate class using the method listed below.

(5) A position that is reallocated to a higher class should normally be filled by certification and appointment from the open competitive or promotional eligible register ~~for the new class~~. However, if the incumbent has been performing the duties that are the basis for reallocation for ~~three months or more~~ one year in a completely satisfactory manner, ~~at the time the position is reallocated to a higher class,~~ he may be given status in the new class, if his name is among the upper one-half of those on the ~~competitive eligible list or promotional list,~~ as of the date of its establishment register at the time his name was originally placed on the register and official documentation is provided; or when he passes an examination for the class with a similar rating. Provided, however, that if the incumbent has been performing the duties that are the basis for reallocation for five years or more in a completely satisfactory manner ~~at the time the position is reallocated to a higher class,~~ he will be given status in

reallocated to the new class if his name appears on the competitive or promotional eligible list, as of the date of its establishment register and official documentation is provided to support the higher classification; or when he passes an examination for the class with a similar rating. In both instances, the employee will be placed into the higher class with status and will not be eligible for either promotional or probationary increase.

~~(6) If a position is reallocated to a lower class in a series, the incumbent may be given regular status in the new class; but may remain eligible for three years to go into a position in the higher class.~~

~~(7) If a position is reallocated to a class in another series (as from clerical to stenographic) the incumbent shall be required to pass an examination qualifying for that part of the work not covered by the previous examination.~~

(8 6) If the incumbent does not appear qualified for the new class to which the position is being reallocated, or if he fails to qualify on examination, he may be transferred to a position in the class for which he has previously qualified or be laid off if there is no position to which he may be transferred, and the position filled by a qualified person.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-11.

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

CHAPTER 670-X-8  
PAY PLAN AND PAY ADMINISTRATION

TABLE OF CONTENTS

|             |  |
|-------------|--|
| 670-X-8-.01 | Authorities and Responsibilities   |
| 670-X-8-.02 | Salary Rates upon Initial Appointment  |
| 670-X-8-.03 | Salary Rate upon Promotion   |
| 670-X-8-.04 | Performance Salary Advances  |
| 670-X-8-.05 | Salary Rate upon Return to <u>Duty Work</u> after Resignation  |
| 670-X-8-.06 | Salary Rate of Incumbents in a Class Reassigned to a Higher <u>Salary Rate Range</u>                         |
| 670-X-8-.07 | Salary Rate of Incumbent of a Position Reallocated to a Class of Positions Assigned to a Higher Salary Range |
| 670-X-8-.08 | Salary Rate upon Demotion  |
| 670-X-8-.09 | Salary Reduction within Range  |
| 670-X-8-.10 | Limitations on Available Funds   |
| 670-X-8-.11 | Prohibition of Raise   |

670-X-8-.01 Authorities And Responsibilities. The Director shall administer and maintain the pay plan subject to such approvals by the Board as ~~are~~ required by law or these rules after consulting with State fiscal officers. The Director shall determine the assignment of classes to salary ranges in the salary schedule in consideration of prevailing rates of pay in outside private and public employment for comparable work, recruiting and turnover experience, the relative value and importance of classes in the state service, the maintenance and benefits received by state employees, the state's financial condition and economic policies, and other relevant factors. The Director may from time to time recommend across-the-board percentage adjustment of the rates in the salary schedule in consideration of significant changes in overall prevailing rates of pay and the cost of living. The Director shall make or cause to be made appropriate surveys of prevailing rates and benefit practices in the Alabama and other pertinent labor markets, ~~including a comprehensive survey of the Alabama market at least once every five years.~~ The Director shall recommend any amendment to the pay plan that will correct inequities or bring about improvements in salary administration either on

his own initiative or at the direction of the Board or of the Governor, or upon request of an appointing authority.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §36-26-12.

**History:** Filed September 29, 1981. **Amended:** Filed February 23, 1983. **Amended:** March 19, 2015,  
effective\_\_\_\_\_.

**670-X-8-.02      Salary Rates Upon Initial Appointment.** The salary rate of a new employee upon entrance into the service shall normally be the minimum rate of the range for the class of positions to which appointed. ~~In the event that it should prove impossible to obtain qualified personnel at such rate, t~~ The appointing authority may recommend and the Director may approve a hiring rate above the minimum rate but not to exceed the Base Mmaximum Rrate of the range. The above the minimum hiring rate will be based on the recent salary or experience of the new employee or competitive market.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §36-26-12.

**History:** Filed September 29, 1981. **Amended:** Filed February 23, 1983. **Amended:** March 19, 2015,  
effective\_\_\_\_\_.

**670-X-8-.03      Salary Rate Upon Promotion.** The salary rate of an employee who is promoted may be increased to that rate in the higher range that will provide an increase of up to ~~four~~ two increments pay steps (about approximately 10 5%). An employee shall not be paid less than the minimum rate of the higher range. The promotional salary increase shall be effective on the date of promotion, which shall always be at the beginning of a semi-monthly pay period. No performance salary advance shall be made during the probationary period. Upon successful completion of probation, ~~an advance shall be made~~ a salary increase can be recommended by the appointing authority in accordance with the rule governing the same, and the anniversary date shall then be changed as provided in such rule (670-X-8-.04). In the event that the employee does not successfully complete probation and is returned to ~~the~~ his former position, the rate of the employee shall be adjusted to the rate paid before promotion or to that higher rate

the employee might have achieved had the anniversary date occurred during the probationary period ~~in the higher position~~; in this case, the anniversary date remains the same as it was prior to promotion.

**Author:** Jackie B. Graham, State Personnel Director  
**Statutory Authority:** Code of Ala. 1975, §§36-6-1(d), 36-26-9.

**History:** Filed September 29, 1981. **Amended:** Filed February 23, 1983; April 17, 1984. **Emergency Rule:** Filed April 17, 1985. **Amended:** Filed February 28, 1991.

**Amended:** Filed May 22, 2006; effective June 26, 2006.

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

#### **670-X-8-.04      Performance Salary Advances.**

(1)            Upon Completion of Probation: A probationary ~~appointee~~ employee who has successfully completed probation may be granted a performance salary advance increase effective at the beginning of the first semi-monthly pay period after the conclusion of the probationary period, and the first day of that pay period shall be the employee's anniversary date for future salary administration purposes. The salary advance may be one or two steps, depending upon the manner of performance of the employee during probation, as recommended by the employee's immediate supervisor and approved by the appointing authority, with report to the Director of the action to be taken.

(2)            Annual Consideration: Every employee shall be considered for a performance salary advance each year on the anniversary date of the last salary increase, unless he has reached the maximum of the range or merit raises are frozen. The appointing authority shall determine the amount of the increase to be granted, if any, in accordance with the following table, and report the action to be taken to the Director in the manner he may prescribe. ~~Provided that if the employee's performance has deteriorated since the last annual service rating to the extent that a lesser or no pay increase is warranted, the appointing authority may award such lesser or no pay increase in his discretion upon submittal of a special revised performance rating.~~ The granting of across-the-board cost-of-living raises by the Legislature does not change the consideration date for performance salary advances. If merit raises have been

frozen and the freeze is lifted, current anniversary dates will be maintained for all state employees. Agencies are prohibited from adjusting employee anniversary dates to obtain merit pay increases at an earlier date.

| <u>Service Rating</u>                              | <u>Number Of Steps For Performance Increase</u> |
|--|---|
| Does <del>not</del> - <u>Not</u><br>Meet Standards | 0   |
| Partially<br>Meets Standards                       | 0   |
| Meets Standards                                    | #1  |
| Exceeds<br>Standards                               | #2  |
| Consistently Exceeds<br>Standards                  | <del>#3 or #4</del> - <u>2</u>                  |

#But not to exceed the maximum rate of the range.

(3) Special Merit Raises. Any recommendation for any increase interval of less than one year or which does not comply with the prescribed number of steps to be given for a specific performance level will be made by the appointing authority directly to the ~~Personnel~~ Board, ~~on~~ in a form prescribed by the ~~Personnel~~ Director, will be acted on individually, and will be recorded in the minutes. The granting of a Special Merit Raise changes the consideration date for regular performance salary advances.

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

**Statutory Authority:** Code of Ala. 1975, §§36-6-1(d), 36-26-9.

**History:** Filed September 29, 1981. **Amended:** Filed February 23, 1983; March 17, 1983. **Emergency rule** filed April 21, 1983. **Amended:** Filed June 17, 1983; April 17, 1984. **Emergency rule** filed April 17, 1985.

**Amended:** Filed May 22, 2006; effective June 26, 2006.

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

**670-X-8-.05** Salary Rate Upon Return To Duty Work After Resignation. The salary rate of an employee who returns to duty work after voluntary resignation in good standing and appointment from a reemployment register may be assigned the rate closest to the salary at the time of resignation, without reduction in pay.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §36-26-12.

**History:** Filed September 29, 1981. **Amended:** Filed February 23, 1983. **Amended:** March 19, 2015, effective\_\_\_\_\_.

**670-X-8-.06      Salary Rate Of Incumbents In A Class Reassigned To A Higher Salary Rate Range.** When a class is reassigned to a higher salary range, the salary rate of each incumbent shall be adjusted at least to the minimum rate of the higher range, or may be adjusted to not more than the corresponding rate in the new range closest to the salary at the time of the reassignment, without a reduction in pay.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §36-26-12.

**History:** Filed September 29, 1981. **Amended:** Filed February 23, 1983. **Amended:** March 19, 2015, effective\_\_\_\_\_.

**670-X-8-.07      Salary Rate Of Incumbent Of A Position Reallocated To A Class Of Positions Assigned To A Higher Salary Range.** In the event that a position is reallocated to a higher class by reason of significant changes in duties and increases in responsibility or complexity, the salary rate of the incumbent shall be adjusted to the minimum rate of the range for the higher class or may be adjusted to the rate in the new range closest to the former rate of the incumbent, without a reduction in pay.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §36-26-12.

**History:** Filed September 29, 1981. **Amended:** Filed February 23, 1983.

**670-X-8-.08      Salary Rate Upon Demotion.** Upon demotion, ~~of an the employee's for disciplinary reasons to a position of a class assigned to a lower salary range,~~ the salary rate of the employee shall be adjusted to that rate in the lower range that the employee would have attained had he remained in the lower classification. ~~as may be recommended by the appointing authority and approved by the Director,~~ provided that the new rate shall not be higher than the

~~maximum rate in the lower salary range. Upon voluntary demotion, if the employee had two years or more of status in the higher level, he may retain the salary rate achieved if that rate is within the salary range of the lower level. of an employee for reasons other than disciplinary, the salary rate of the employee may be the last rate paid prior to the demotion or the maximum rate of the lower range, whichever is the lower. This section does not apply to a voluntary demotion in lieu of a layoff.~~

**Author:**

**Statutory Authority:** Code of Ala. 1975, §36-26-12.

**History:** Filed September 29, 1981. **Amended:** Filed February 23, 1983. **Amended:** March 19, 2015,  
effective\_\_\_\_\_.

**670-X-8-.09      Salary Reduction Within Range.**

(a) An appointing authority may reduce the salary of any employee to a lower rate in the range for the position with approval of the Board. In such cases, at least 10 days before the recommended action is to take place, the appointing authority shall notify the employee and submit the recommendation in writing with the reasons therefor to the Director. When such action is approved, the anniversary date of the employee shall be changed to the effective date of the salary reduction.

(b) Any person who holds a position with the state may voluntarily diminish his compensation. Such rate must still be in the salary range for the respective classification. The employee will sign an acknowledgment stating his position and the rate to which he desires to diminish his compensation.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §36-26-12.

**History:** Filed September 29, 1981. **Amended:** Filed February 23, 1983. **Amended:** March 19, 2015,  
effective\_\_\_\_\_.

**670-X-8-.10      Limitations On Available Funds.**

Notwithstanding the provisions of this rule, no salary action shall be taken unless authorized funds ~~therefor~~ are available. In the event that any salary action provided for in this rule cannot be taken because of unavailability

of funds, the appointing authority shall so advise the Director in writing, and the actions shall be held in abeyance only until sufficient funds become available. Prior to payment of any salary, wage or other compensation for personal service, the Director shall certify that each person named on the payroll, estimate, voucher, or account is an employee of the state, has been appointed or employed in pursuance to law and these rules, and is legally entitled to receive the sum stated therein.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §36-26-12.

**History:** Filed September 29, 1981. **Amended:** Filed February 23, 1983. **Amended:** March 19, 2015,  
effective\_\_\_\_\_.

**670-X-8-.11**      **Prohibition Of Raise.** No employee shall be entitled to or receive an increase in salary upon a transfer, unless otherwise provided for in these rules.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §36-26-12.

**History:** Filed May 24, 1985. **Amended:** March 19, 2015,  
effective\_\_\_\_\_.

**CHAPTER 670-X-9  
PERSONNEL SELECTION PROCEDURES**

**TABLE OF CONTENTS**

**670-X-9-.01 Applications and Examinations**  
**670-X-9-.02 Registers**  
**670-X-9-.03 Certifications and Appointments**  
**670-X-9-.04 Selection From Within**

**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 employment~~7.~~
2. He declines three offers of positions in the class for which the register was established~~7.~~
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.

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

CHAPTER 670-X-10  
THE WORKING TEST (PROBATIONARY) PERIOD

TABLE OF CONTENTS

670-X-10-.01 Probationary Period

670-X-10-.02 Prohibition of Transfer during Probationary Period

670-X-10-.03 Prohibition of Salary Increase upon Transfer

**670-X-10-.01 Probationary Period.** Every person appointed to a position in the classified service after certification of his name from a promotion list or an employment list shall be tested by a probationary period while occupying such position. During this period the employee may be removed if he is unable or unwilling to perform his duties satisfactorily or if for any other reason he is found to be unsuitable for continuance in service. Such removal shall be accomplished by notice in writing to the employee, ~~giving the reasons therefore.~~ If any employee is removed from his position during or at the end of his ~~working test~~ ~~(or probationary)~~ period, and the Director determines that he is suitable for appointment to another position, his name may be restored to the list from which it was certified. If any such employee was a regular employee in another position within the same agency in the classified service immediately prior to his appointment, he shall be ~~demoted~~ returned to his regular classification. If his promotion has been in a state agency other than the one in which he held regular status, ~~and there is no vacancy to which he may be demoted,~~ he may return to the agency at which he held regular status, at the discretion of the appointing authority.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-21(d).

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

**670-X-10-.02 Prohibition Of Transfer During Probationary Period.** No employee is allowed a transfer during the probationary period unless the Director determines that such employee ~~could have been certified for appointment to~~

the position would have been eligible for appointment at the time of his initial appointment to the new agency.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-21.

**History:** Filed May 24, 1985. **Amended:** March 19, 2015, effective\_\_\_\_\_.

~~670-X-10-.03 Prohibition Of Salary Increase Upon Transfer.~~

~~No employee may receive a salary increase upon a transfer.~~

~~**Author:**~~

~~**Statutory Authority:** Code of Ala. 1975, § 36-26-21.~~

~~**History:** Filed May 24, 1985.~~

CHAPTER 670-X-11  
HOURS OF WORK

TABLE OF CONTENTS

|                     |   |
|---------------------|---|
| 670-X-11-.01        | Uniform Regulations                                   |
| 670-X-11-.02        | Employee Compliance                                   |
| 670-X-11-.03        | Pay Status  |
| 670-X-11-.04        | Regular Work Week                                     |
| 670-X-11-.05        | Nonwork Days Not Counted Toward<br>Leave Computations |
| 670-X-11-.06        | Attendance Reports Required.                          |
| 670-X-11-.07        | Compensatory Time                                     |
| <u>670-X-11-.08</u> | <u>Subsistence</u>                                    |

670-X-11-.01 Uniform Regulations. The Director shall administer regulations for maintaining uniform and equitable hours of work required of all employees in the state service, as adopted by the Board, and approved by the Governor. ~~The number of hours shall be uniform for all whose positions are allocated to the same class, unless specifically provided otherwise by action of the Board, and recorded in its minutes, together with its reason for each exception; but the hours for different classes may be different.~~

**Author:**

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

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

670-X-11-.02 Employee Compliance. All employees in the state service shall be in attendance at their work in accordance with the rules regarding hours of work, holidays and annual, sick, military and special leaves of absence with or without pay, as provided in these rules.

**Author:**

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

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

670-X-11-.03 Pay Status. Employees shall be in pay status when actually working, when on authorized leave, and on ~~Sundays~~, holidays, and other nonwork days coming between days when they are otherwise in "pay status."

**Author:**

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

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

**670-X-11-.04 Regular Work Week.** A 40-hour week shall be used for the purpose of calculating the pay of employees paid on a semi-monthly basis. A work day is the set schedule for which work is to be performed.

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

**Statutory Authority:** Code of Ala. 1975, §§36-6-1(c), (d), 36-26-9.

**History:** Filed September 29, 1981. **Emergency Rule:** Filed October 19, 1982. **Amended:** Filed February 23, 1983.

**Amended:** May 22, 2006; effective June 26, 2006. **Amended:** March 19, 2015, effective\_\_\_\_\_.

**670-X-11-.05 Nonwork Days Not Counted Toward Leave Computations.** In computing annual, sick, educational, military, and other leaves for employees continuing in the state service, with or without pay, ~~Sundays~~, holidays, or other nonwork days shall not be counted. Leave taken for less than a full day shall be computed ~~on an hourly basis~~ in no less than fifteen minute increments.

**Author:**

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

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

**670-X-11-.06 Attendance Reports Required.** All departments shall ~~submit regular reports of attendance to the Director in the form and on the dates he shall specify~~ maintain accurate and current time and leave records in the official time and attendance/payroll/personnel system.

**Author:**

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

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

670-X-11-.07     Compensatory Time.

(1)            Notwithstanding any departmental policy to the contrary, it shall be the policy of the State of Alabama to use compensatory time, rather than wages paid overtime to compensate employees subject to the provisions of the Fair Labor Standards Act for performing overtime work. Departmental overtime policies contrary to the overall state policy must be approved by the State Personnel Board. Approval by the State Personnel Board may be made in those cases where compelling reasons are cited by the appointing authority. Overtime, overtime compensation, and compensatory time are defined by the terms as used in the Fair Labor Standards Act.

(2)            Payment for Accumulated Compensatory Time Upon Separation from State Service. Upon separation from state service a nonexempt employee, as defined by the Fair Labor Standards Act, is entitled to be paid for accumulated compensatory time. Employees other than persons designated as law enforcement officers by the Code of Alabama and persons designated as seasonal workers by the State Personnel Department are entitled to be paid for accumulated compensatory time earned but in no event for an amount greater than 240 hours. Those persons defined as law enforcement officers or seasonal employees are entitled to payment for earned accumulated compensatory time upon separation from state service but in no event an amount greater than 480 hours. Under no circumstance shall Fair Labor Standards Act exempt employees be entitled to compensatory time or paid overtime without the approval of the Board. Any employee found to violate this rule may be liable for the repayment of the time improperly credited or paid.

(3)            Accumulated compensatory time obligations are not transferable from department to department. Any accumulated compensatory time obligation must be liquidated by the department in which the obligation was incurred, prior to the transfer.

(4)            Exempt employees, as defined by the Fair Labor Standards Act, are not entitled to ~~payment for accumulated~~ compensatory time, unless specified by law or approved by the Board. ~~upon separation from state service or upon transfer within state service.~~

(5) Use of Compensatory Time. Accumulated compensatory time shall be used before annual leave is used. ~~This rule shall not be interpreted to require the loss of accumulated annual leave as prescribed by Rule 670-X-13-.05.~~ Supervisors may require employees to use compensatory time. However, compensatory time may not be granted in order for an employee to engage in any other employment during his scheduled working hours.

**Author:**

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

**History:** Filed March 19, 1986. **Emergency Rule:** Filed March 19, 1986. **Amended:** March 19, 2015, effective\_\_\_\_\_.

**670-X-11-.08 Subsistence.** Those law enforcement officers that earn subsistence shall receive a subsistence allowance for each working day of a pay period while engaged in the performance of the duties as law enforcement officers. This subsistence amount shall be prorated in accordance with the actual time physically worked by the law enforcement officer.

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

**Statutory Authority:** Code of Ala. 1975, § 36-21-2. History: March 19, 2015, effective\_\_\_\_\_.

CHAPTER 670-X-12  
HOLIDAYS

TABLE OF CONTENTS

670-X-12-.01 Holidays

670-X-12-.01 Holidays.

(a) State offices may be closed only on all days made legal holidays by the laws of Alabama and on such other days as may be declared holidays by the Governor. When any holiday falls on Sunday, the following Monday may be observed. When any holiday falls on Saturday, the preceding Friday may be observed. An employee may only be paid for a holiday if he is in pay status for the majority of the day prior to and after the holiday.

The following are legal holidays:

New Year's Day (January 1)

Martin Luther King, Jr./Robert E. Lee's Birthday - 3rd Monday in January

Mardi Gras Day (only in Baldwin and Mobile counties)(Personal Leave Day will be granted for all other counties.)

George Washington's Birthday/Thomas Jefferson's Birthday - 3rd Monday in February

~~Thomas Jefferson's Birthday (April 13)~~

Confederate Memorial Day - 4th Monday in April

National Memorial Day - last Monday in May

Jefferson Davis's Birthday - 1st Monday in June

Independence Day (July 4)

Labor Day - 1st Monday in September

Columbus Day/ Fraternal Day/ American Indian Heritage Day - 2nd Monday in October

Veterans' Day (November 11)

Thanksgiving Day - 4th Thursday in November as designated by the Governor

Christmas Day (December 25)

(b) Other than the designated legal holidays, State agencies can only be closed with the approval of the Governor. Any State agency may remain open on a State holiday upon written notice by the appointing authority to the Board at least 60 days in advance of the holiday.

(c) Each employee or their supervisor shall attempt to schedule any compensatory leave day provided in lieu of a regularly scheduled holiday, subject to the approval of the supervisor, during the quarter that the regularly scheduled holiday occurred. In the event that any compensatory leave day cannot be scheduled during the designated quarter, then the compensatory leave day may be accumulated at the request of the employee for a period up to one year. Supervisors failing to schedule compensatory leave days for employees within the quarter, unless the day is carried forward at the request of the employee, must justify that action in writing to the Director and the employee shall receive pay at a rate not less than the employee's usual customary rate of pay for any compensatory leave day to which he may be entitled and which has not been taken.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 1-3-8, § 36-26-9.

**History:** Filed September 29, 1981. **Amended:** Filed March 19, 1986. **Amended:** March 19, 2015, effective\_\_\_\_\_.

CHAPTER 670-X-13  
ANNUAL LEAVE (VACATION)

TABLE OF CONTENTS

670-X-13-.01 Employees Entitled To Annual Leave  
 670-X-13-.02 Annual Leave Schedule  
 670-X-13-.03 Length of Service Defined  
 670-X-13-.04 Use of Annual Leave  
 670-X-13-.05 Carry-Over of Annual Leave  
 670-X-13-.06 Payment of Accumulated Leave upon Separation from Service  
 670-X-13-.07 Leave for Permanent Part-Time Employees  
 670-X-13-.08 Transfer of Leave into the State Merit System

**670-X-13-.01 Employees Entitled To Annual Leave.**  
Employees in permanent positions, who are regularly employed by the State and who are subject to the provisions of the State Merit System, including provisional appointees, shall earn annual leave (vacation) with pay on the basis of semi-monthly pay periods. Annual leave shall not accrue except when an employee is actually working or on authorized leave with pay and in no case shall leave accrue subsequent to actual separation from state service.

**Author:** Jackie B. Graham, State Personnel Director  
**Statutory Authority:** Code of Ala. 1975, §§36-6-1(b), (d); 36-2-9; 36-26-35.  
**History:** Filed September 29, 1981. **Amended:** Filed February 28, 1991. **Amended:** Filed May 22, 2006; effective June 26, 2006. **Amended:** March 19, 2015, effective \_\_\_\_\_.

**670-X-13-.02 Annual Leave Schedule.**

| <u>Employee's total service</u> | <u>Accumulation of leave per pay period</u> | <u>Annual Accumulation</u> |
|---------------------------------|---|----------------------------|
| Fewer than 5 years              | 4 hours                                     | 13 days                    |
| 5 but less than 10 years        | 5 hours                                     | 16 days 2 hours            |
| 10 but less than 15 years       | 6 hours                                     | 19 days 4 hours            |
| 15 but less than 20 years       | 7 hours                                     | 22 days 6 hours            |
| 20 but less than 25 years       | 8 hours                                     | 26 days                    |

~~25 years of service or more — 9 hours — 29 days 2 hours~~

**Author:**

**Statutory Authority:** ~~Code of Ala. 1975, §36-26-35.~~

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

~~NOTE: Beginning with the payday on April 3, 2006, all persons who are regularly employed by the state and who are 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, shall be entitled to accumulate annual leave on the basis of semi-monthly pay periods as follows:~~

| <u>Employee's total service</u> | <u>Accumulation of<br/>leave per<br/>pay period</u> | <u>Annual<br/>Accumulation</u> |
|---------------------------------|---|--------------------------------|
| Fewer than 5 years              | 4 hours 20 minutes                                  | 13 days                        |
| 5 but less than 10 years        | 5 hours 25 minutes                                  | 16 days 2 hrs                  |
| 10 but less than 15 years       | 6 hours 30 minutes                                  | 19 days 4 hrs                  |
| 15 but less than 20 years       | 7 hours 35 minutes                                  | 22 days 6 hrs                  |
| 20 but less than 25 years       | 8 hours 40 minutes                                  | 26 days                        |
| 25 years or more                | 9 hours 45 minutes                                  | 29 days 2 hrs                  |

~~Code of Ala. 1975, § 36-36-35.~~

~~This revision to annual leave accumulation will be reflected in future amendments to the Rules of the State Personnel Board.~~

**Author:**

**Statutory Authority:** Code of Ala. 1975, §36-26-35.

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

**670-X-13-.03 Length Of Service Defined.** For purposes of this section, service shall mean paid employment in a ~~permanent~~ position eligible for leave accruals. The following shall not be counted as periods of employment in determining eligibility for increased leave:

- (a) Educational leave with or without stipend~~7~~.
- (b) Other approved leave without pay.

(c) Time employed in a position where leave was not accumulated in accordance with this Chapter.

**Author:** Halycon Vance Ballard

**Statutory Authority:** Code of Ala. 1975, §36-26-35.

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

**670-X-13-.04 Use Of Annual Leave.** Employees may use accumulated annual leave ~~accumulated~~ with the approval of their respective appointing authorities, ~~at the time they prefer,~~ subject always to the right of the appointing authorities to plan the work under their control and to authorize leave at such time as the employee can best be spared. However, no employee shall engage in any other employment during his scheduled working hours.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §36-1-11, §36-26-35.

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

**670-X-13-.05 Carry-Over Of Annual Leave.** No more than ~~sixty days~~ 480 hours of accumulated annual leave may be carried over beyond the end of the calendar year.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §36-26-35.

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

**670-X-13-.06 Payment Of Accumulated Leave Upon Separation From Service.**

(1) Upon separation from service, an employee shall be paid for the actual number of ~~days~~ hours of annual leave he has ~~earned-accumulated,~~ up to a maximum of ~~sixty days~~ 480 hours in an employee's career, with the amount being computed ~~on the basis of the daily~~ using the base hourly pay rate at the time of separation multiplied by the number of ~~days~~ hours of leave due. ~~Provided, however, that should such separation be for cause arising out of actions or a course of conduct on the part of the employee contrary~~

~~to justice, honesty, or good morals such as to constitute moral turpitude such payment for annual leave shall not be made. Action taken under this provision of the rule must be documented by the appointing authority and concurred in by the Personnel Director.~~

~~(2) This proviso shall be applied prospectively to leave that accrues after April 5, 1991. Leave accrued prior to that date shall be paid without regard to this proviso. In determining leave accrued, leave taken by an employee during his employment is charged against the earliest leave accrued.~~

(3 2) Should an employee return to service, his absence must be for a longer period of time than the amount of annual leave paid.

**Author:** Halycon Vance Ballard

**Statutory Authority:** Code of Ala. 1975, §36-26-35.

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

**670-X-13-.07 Leave For Permanent Part-Time Employees.**

Permanent part-time employees shall earn leave on a basis proportional to the time they worked in their permanent part-time positions.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §36-26-35.

**History:** Filed May 24, 1985. **Amended:** March 19, 2015,  
effective\_\_\_\_\_.

**670-X-13-.08 Transfer Of Leave Into The State Merit System.**

(1) Persons entering the state merit system may not transfer into the state merit system annual leave accumulated in a non-merit system employment positions with the following exception:

(a) Individuals employed by a non-merit system State agency or entity, who accumulate leave in accordance with the procedures established by the Rules of the State Personnel Board may transfer their accumulated annual leave

into the state merit system provided the appointing authority approves the acceptance of the leave. The non-merit system State agency or entity must certify the amount of leave the employee has accumulated and further certify that the accumulation of leave is in accordance with procedures established by the Rules of the State Personnel Board. This provision does not apply to public schools and public postsecondary institutions.

**Author:** Thomas G. Flowers

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

**History:** Filed May 24, 1985. **Amended:** Filed August 13, 2001; effective September 17, 2001. **Amended:** March 19, 2015, effective\_\_\_\_\_.

CHAPTER 670-X-14  
SICK LEAVE

TABLE OF CONTENTS

670-X-14-.01 Sick Leave  
670-X-14-.02 Use of Sick Leave for Maternity  
~~670-X-14-.03 Restoration of Leave and Payment  
for Time Lost Due To On-The-Job  
Injury or Occupational Illness~~  
670-X-14-.043 Sick Leave Bank Donated Leave  
  
670-X-14-.01 Sick Leave.

(1) An allowance of four hours and twenty minutes for each semi-monthly period of service shall be made for sick leave. Unused portions of such allowance may accumulate but not ~~more than 150 days~~ to exceed a maximum of 1200 hours ~~may be carried over beyond the end of the calendar year;~~ provided that, where an employee suffers extended illness or disability lasting more than ~~150 days~~ 1200 hours and requiring the employee to have exhausted all accumulated leave, the State Personnel Board may, on the recommendation of the appointing authority, approve the restoration and use of any sick leave which he might have earned in excess of this maximum. An employee who retires shall be entitled to be paid for fifty percent of his accumulated sick leave at the time of his retirement up to a maximum of 600 hours in his career. Such payment constitutes liquidation of the sick leave balance of the employee.

~~NOTE: Beginning with the payday on April 3, 2006, all persons who are regularly employed by the state and who are 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, shall be entitled to accumulate sick leave on the basis of semi-monthly pay periods at a rate of 4 hours and 20 minutes per pay period. This revision to sick leave accumulation will be reflected in future amendments to the Rules of the State Personnel Board.~~

(a) Neither annual nor sick leave shall accrue except when an employee is actually working or on

authorized leave with pay, and in no case shall leave accrue subsequent to actual separation from ~~the~~ service.

(b) Sick leave is hereby defined to mean the absence from duty of an employee because of: (1) illness; (2) bodily injury not incurred in line of duty, or bodily injury or occupational illness incurred in line of duty, ~~but for which special leave is not granted~~; (3) attendance upon members of the immediate family whose illness requires the care of such employee; (4) death in the immediate family of the employee. Immediate family is hereby defined to include ~~wife or husband~~ spouse, children as defined by the Family and Medical Leave Act, grandchildren, parents or grandparents, sister or brother, mother-in-law, father-in-law, daughter-in-law and son-in-law. Where unusually strong personal ties exist, due to an employee's having been supported or educated by a person of some relationship other than those listed, this relationship may be recognized for leave purposes. In each such case, the employee concerned shall file with his appointing authority a written statement of the circumstances which justify an exception to the general rule.

(c) Sick leave with pay is not a right for which employees may make demand, but a privilege granted in accordance with prescribed rules and regulations, to which the Board may make exceptions as the best interest of the service demand. At the discretion of the appointing authority, employees may be required to maintain a minimum number of sick leave hours.

(d) Either the appointing authority or the Board may require at any time a claim for a sick leave be supported by adequate evidence; and any unjustified or fraudulent claim for sick leave may be punished by loss of pay, loss of accumulated leave, suspension and/or dismissal.

(e) ~~Employees may~~ shall not be compensated for accumulated sick leave when they are separated from the state service, except in the case of retirement or death. However, if they leave the service in good standing and are reemployed within a period of four years from date of separation, sick leave accumulated during previous employment or any part thereof, may be restored upon recommendation by the appointing authority and approval by the Director. Under no circumstance can an employee use

sick leave to engage in any other employment during his scheduled working hours.

(f) In case of serious disability or illness, sick leave may be advanced to any permanent employee under the following conditions: (1) All accrued leave (sick and annual) must be exhausted before a request for an advance is made. (2) No advance shall be made to any employee unless the absence from duty because of disability is for a period of five days or more. (3) Each application for an advance shall be supported by a certificate from a registered practicing physician health care provider. (4) The total of advances of sick leave shall not at any time exceed 24 work days.

(g) Employees shall file requests for advance of sick leave with the appointing authority of the department in which they are employed, on forms to be provided by the State Personnel Department. After making such investigations as he deems advisable, the appointing authority shall either approve or disapprove such applications. ~~Provided, that when applications are disapproved, the reason for such action must be stated on the face thereof.~~

(h) Advances of sick leave shall be charged against such leave subsequently accumulating. In the case of separation from the state service of an employee to whom sick leave has been advanced in an amount in excess of that subsequently accumulated, the employee shall be liable for the period of such excess, and a deduction therefor shall be made from any salary due him on the basis of the salary rate obtained during the period of advanced sick leave. If no salary is due such employee from which deductions may be made, or the salary due is insufficient to cover the amount due the state, a written request shall be filed with him asking that the amount due be paid into the state funds from which it was drawn. If he refuses to comply with this request the amount due may be recovered by suit to be filed upon request of the ~~State Personnel~~ Director. No such employee shall be readmitted to the state service unless he shall first satisfy any or all outstanding claims or liabilities which have accrued against him under the foregoing provisions of this rule.

(i) Transfer of Sick Leave into State Merit System. Persons entering the state merit system may not

transfer into the state merit system sick leave accumulated outside the state merit system with the following exceptions:

1. Individuals employed by a non-merit system State entity or agency who ~~accumulate~~ maintain a sick leave system in accordance with the procedures established by the Rules of the State Personnel Board may transfer their accumulated sick leave into the state merit system provided the appointing authority approves the acceptance of the leave. The non-merit system state agency or entity must certify the amount of sick leave the employee has accumulated and further certify that the accumulation of sick leave is in accordance with procedures established by the Rules of the State Personnel Board. This provision does not apply to public schools or public postsecondary institutions.

2. Those persons entering the state merit system from the public schools or public postsecondary institutions of the State of Alabama may, upon the approval of the appointing authority, retain a record of accumulated sick leave that may be used only in the case of illness and only at such times that all state merit system sick and annual leave has been exhausted.

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

**Statutory Authority:** Code of Ala. 1975, §§36-6-1(d); 36-26-9; 36-26-36.

**History:** Filed September 29, 1981. **Amended:** Filed May 24, 1985. **Amended:** Filed October 3, 1995; effective November 7, 1995. **Amended:** Filed August 13, 2001; effective September 17, 2001. **Amended:** Filed May 22, 2006; effective June 26, 2006. **Amended:** March 19, 2015, effective\_\_\_\_\_.

**670-X-14-.02 Use Of Sick Leave For Maternity.**

Accumulated sick leave may be used for purposes of maternity leave so long as: (1) the employee works up until the time she is disabled as a result of pregnancy, and (2) returns to work as soon as she ceases to be disabled for this reason. A doctor's verification of disability may be required by the appointing authority.

**Author:**

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

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

~~**670-X-14-.03 Restoration Of Leave And Payment For Time Lost Due To On-The-Job Injury Or Occupational Illness.**~~

~~(1) An on the job injury is an injury to an employee caused by an accident arising out of and in the course of his employment when it occurs within the period of his employment at a place where he may reasonably be, and while he is reasonably fulfilling the duties of his employment or engaged in doing something incident to it. An occupational illness is a disease arising out of and in the course of employment which is due to hazards in excess of those ordinarily incident to employment in general and is peculiar to the occupation in which the employee is engaged.~~

~~(2) When an employee is required to use accumulated sick or annual leave or leave without pay due to a serious injury on the job or serious occupational illness, up to one hundred percent (100%) of such leave may be restored (or reimbursement made for leave without pay). "Serious" injury or illness is defined to mean work time lost in excess of three (3) days; provided that in the event that time off due to the injury/illness exceeds 21 days, the three days shall automatically be restored.~~

~~(3) An appointing authority must request approval of such restoration (or reimbursement) no later than sixty (60) days following the employee's return to work, on State Personnel Department form, and recommend the percent of restoration.~~

~~(4) Any payments the employee receives from Workmen's Compensation type coverage must be deducted from any wages the employee receives.~~

~~(5) The total amount of time off allowed under this procedure is twenty six (26) weeks.~~

~~(6) Leave time under this procedure of one to three (1-3) days must be covered by the employee's regular sick or annual leave, compensatory time (for non-exempt employees only), or leave without pay, and is not subject to restoration (or reimbursement); unless waiver is~~

~~recommended by the appointing authority and approved by the Board.~~

~~(7) The Board reserves the right to restore leave at less than one hundred percent (100%), if circumstances warrant.~~

~~(8) Out-of-class work assignments for light duty are encouraged. Light duty must be limited to twenty (20) work days or less. Extensions of light duty time may be approved by the Board upon the recommendation of the appointing authority.~~

~~(9) A second medical opinion by a physician selected and paid for by the appointing authority is required to substantiate a request for Special Leave. (See paragraph 11 below.)~~

~~(10) To be eligible to file a Special Leave Request form (i.e., Form 7), notification of the job related accident or incident must be filed by the employee at the department level before the end of the work shift on which it occurred. An official incident/injury report as well as the Form 7 must be notarized and sworn to under oath before being submitted to the State Personnel Board.~~

~~(11) Under exceptional circumstances, the appointing authority may recommend waiver for any or all of the following:~~

~~(a) the requirement of a second medical opinion,~~

~~(b) the three-day waiting period,~~

~~(c) the requirement for the employee to file a notification with his department by the end of his work shift.~~

~~(12) Any indication of lack of compliance with these rules shall be brought to the attention of the Personnel Board by the Personnel Director.~~

~~(13) The foregoing provisions of this Rule shall continue in force and effect only for on-the-job injuries and occupational illnesses which have occurred prior to October 1, 1994. Compensation for such injuries and illnesses occurring on or after October 1, 1994 will be~~

~~governed exclusively by the State Employee Injury Compensation Program established by Act 94-680, Regular Session, and Finance Department (Division of Risk Management) Rule 355-8-1, and this Rule shall have no applicability to any injury or illness of any kind, extent or nature which occurs on or after October 1, 1994.~~

---

~~**Author:** Halycon Vance Ballard~~

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

~~**History:** Filed September 29, 1981. **Amended:** Filed July 23, 1990. **Amended:** Filed December 16, 1994; effective January 20, 1995.~~

**670-X-14-.043 Sick Leave Bank Donated Leave.** Upon the recommendation of an appointing authority and the approval of the Personnel Director, an employee may receive transfer a specified number of unused sick leave days (within the prescribed 150 day maximum) a total of up to 480 hours of leave donations to from another employee or employees of equal or lower classification for a maximum of 480 hours in his entire state career. A lower classification may donate to a higher classification pending Board approval. The donated leave request: provided such transfer request (1) is made in writing, (2) is justified by catastrophic circumstances or maternity, (3) is recommended by the appointing authority, (4) is acted upon prior to the leave being used, and (5) is recommended only after all other available sick and annual leave has been used. Records of such transfers shall be maintained by the ~~State Personnel~~ Department. The donated leave for the employee shall remain in effect for twelve months after donation or until used by such employee, whichever occurs first; provided however, the employee remains employed with the State of Alabama.

**Author:** Halycon Vance Ballard

**Statutory Authority:** Code of Ala. 1957, §36-26-9.

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

CHAPTER 670-X-15  
OTHER TYPES OF LEAVE

TABLE OF CONTENTS

670-X-15-.01 Educational Leave  
670-X-15-.02 Military Leave  
670-X-15-.03 Leave without Pay  
670-X-15-.04 Special Security or Defense Leave of Absence  
670-X-15-.05 Court Attendance  
670-X-15-.06 Mandatory Annual Leave and/or Leave Without Pay  
670-X-15-.07 Bereavement Leave

**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 \_\_\_\_\_.

CHAPTER 670-X-16  
PERFORMANCE (SERVICE) RATINGS

TABLE OF CONTENTS

- 670-X-16-.01 General Information
- 670-X-16-.02 Use of Ratings
- 670-X-16-.03 Inspection of Ratings

**670-X-16-.01 General Information.** In compliance with the Act requiring periodic service ratings for all employees, the Director shall maintain a service rating system which will require ratings to be furnished to the Personnel Department at specified intervals. The Director shall provide the forms and establish standards for a uniform system which may be changed or amended ~~as~~ for the good of the service ~~requires~~.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-22.

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

**670-X-16-.02 Use Of Ratings.** Service ratings shall be considered in determining salary increases and decreases within the limits established by law and by the pay plan; as a factor in promotional tests exams; as a factor in determining the order of layoff when forces must be reduced because of lack of funds or work, ~~and the order in which names are to be placed on reemployment lists~~; and as a means of ~~discovering~~ identifying employees who should be promoted, demoted, transferred, or dismissed.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-22.

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

**670-X-16-.03 Inspection Of Ratings.** Any employee shall be given reasonable opportunity to inspect the records of the Department which show his service ratings and the service ratings of other employees in the same class and division.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-22.

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

**CHAPTER 670-X-17  
RECORDS AND REPORTS**

**TABLE OF CONTENTS**

- 670-X-17-.01 Service File**
- 670-X-17-.02 Change in Status Report**
- 670-X-17-.03 Inspection of Records**

**670-X-17-.01 Service File.** The Director shall maintain a service file for each employee in the state service showing ~~the~~ his name, title of the class of position held, salary rate, date of employment, personal history data, unit within the department to which assigned, changes in employment status, and such other information as he may consider pertinent. Notwithstanding any other laws to the contrary, when a document pertaining to disciplinary action is placed in the employee's personnel file, the agency which is the employer shall supply a copy of the document to the employee no later than ten days after its inclusion in his personnel file. In the event that the document is not provided to the employee within the ten days as required, the document shall be removed from the employee's personnel file and shall not be used against the employee in any future proceeding or disciplinary action.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 36-26-9, 36-26-27.1.

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

**670-X-17-.02 Change In Status Report.** Every appointment, transfer, promotion, demotion, dismissal, vacancy, change of salary rate, leave of absence, absence from duty, and other temporary or permanent change in status of employees in the state service shall be reported to the Director at such time, in such form, and together with such supporting or pertinent information as the Director may prescribe in conformity with these rules.

**Author:**

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

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

**670-X-17-.03 Inspection Of Records.** The records of the Department are public records and are open to public inspection during normal working hours, provided that the following shall be held confidential as a matter of public policy:

(a) Applications for examination of persons who have not been employed.

(b) Lists of eligibles who have competed successfully on examinations.

(c) History files and ~~Test~~-test materials such as written tests or forms or instructions which if known to an applicant might give him an advantage in competing for appointment or promotion.

(d) Any information listed in Ala. Code, 1975, § 41-13-7, and any other applicable law, which is considered confidential information.

(e) Any recorded information received by a public officer in confidence, sensitive personnel records, pending criminal investigations, and records, the disclosure of which would be detrimental to the best interest of the public.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 36-26-44.

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

**CHAPTER 670-X-18  
SEPARATIONS FROM SERVICE**

**TABLE OF CONTENTS**

|                     |                     |
|---------------------|---------------------|
| <b>670-X-18-.01</b> | <b>Layoffs</b>      |
| <b>670-X-18-.02</b> | <b>Dismissals</b>   |
| <b>670-X-18-.03</b> | <b>Suspensions</b>  |
| <b>670-X-18-.04</b> | <b>Resignations</b> |

**670-X-18-.01**    **Layoffs.**

(1)            An appointing authority may lay off an employee whenever it is deemed necessary by reason of shortage of work or funds, or the abolition of a position or other material change in duties or organization. The order in which ~~an employees~~ is are to be laid off in the classified service shall be determined by the appointing authority in accordance with these rules.

(2)            The appointing authority shall submit a plan for the layoff to the ~~State Personnel~~ Director, where possible at least fifteen (15) working days in advance of the effective date, who shall review the plan to ensure that:

(a)            A statement of the circumstances requiring the layoff is made.

(b)            The plan includes:

~~1.            The list of employees in each class in order of retention showing computation of the efficiency ratings.~~

~~2.            The~~ the scope of the competitive area determined by the certification from which the affected employees were appointed, i.e., local, county, option, or statewide employment registers.

(3)            The appointing authority shall certify to the Director that the layoff is not discreditable to the employee. Under no circumstances is a layoff to be used as a disciplinary action against an employee.

(4)            Competition shall be among all employees holding positions of a particular class governed by the manner in which they were appointed. If the reduction in

force is to apply to more than one class, each class shall be treated separately, except where reductions are to be made ~~in a class of positions which is one of a series of classes (e.g., Clerk I, Clerk II, Clerk III~~ ASA I, ASA II, ASA III).

(5) A permanent employee may displace another employee in the same classification by a process called bumping. When a ~~job position~~ is being abolished, all departmental employees in the ~~competitive~~ class can compete to determine which employee ~~is in the lowest category has~~ the lowest score and should therefore be laid off. The person occupying the abolished position then has the opportunity of moving to the position occupied by an employee with a ~~lowest~~ lower efficiency rating. with the consent of the appointing authority.

(6) At the discretion of the appointing authority and with the approval of the Director, A ~~a~~ permanent employee may also bump another employee in a lower class in the same series in which he formerly held status. ~~At the discretion of a department head and with the approval of the Director, a permanent employee may be allowed to bump another employee in a lower class in a related series in which he formerly held status if such option is specified as part of the layoff plan. Seniority and performance appraisal scores attained in the higher class shall be included in the computation of the efficiency rating in the lower class. The Director shall make a determination about the relationship between classes for layoff purposes upon request of the appointing authority.~~

(7) Employees who are temporary, provisional, or probationary are considered to be nonstatus. Before permanent status employees in a job class are laid off or demoted, all nonstatus employees in the job class must be separated, except when retention is specified by law.

(8) A classified position may not be abolished if there is an individual or individuals employed by the agency outside the State Merit System performing similar duties. The non-merit employee will be separated prior to the merit employee being laid off; however, if the laid off employee is unwilling to accept the duties and conditions of the non-merit employee, this shall not apply.

(9) Employees who are conditional and the condition is affected by the layoff will be separated prior to the permanent merit employees in the same class. Employees who are conditional but the conditional reason is not affected by the layoff plan will comply with the normal layoff procedure.

(~~8~~ 10) Efficiency ratings shall be based upon the total length of continuous service and the performance appraisals earned in the department in the class or class series affected by the layoff.

(a) Performance Appraisal Score - Average the last three performance appraisal ratings, or fewer if three are not recorded. An employee who has never received a performance appraisal and has received permanent status shall receive a score computed from the final probationary performance appraisal rating.

(b) Seniority Score - Seventy (70) points shall be allowed for completion of probation in the class. One-fourth (1/4) point shall be credited for each additional full month or major fraction thereof for continuous state service in the class or classes affected by the layoff. (Fifteen (15) days or more will be considered as one month; ~~less than fifteen (15) days will be disregarded.~~)

(c) Continuous State service for the purpose of layoff means employment in the class in the department affected by the layoff without a payroll break not covered by an approved leave of absence with or without pay provided, however, that an employee laid off shall not be considered to have a break in service when reemployed within two years.

(~~9~~ 11) Efficiency ratings shall be computed by multiplying the sum of points for performance by ~~fifty (50)~~ sixty (60) percent and the sum of points for seniority by ~~fifty (50)~~ forty (40) percent and combining the sum of both factors. The efficiency ratings so computed shall constitute an employee's "efficiency rating" as that term is used in Code of Ala. 1975, §36-26-15(b).

(~~10~~ 12) The order of the layoff of permanent employees in each class shall be governed by the employees' respective efficiency ratings (computed in the manner just

described) and veteran's preference. The layoff lists will be prepared by placing the employee with the highest efficiency rating at the top of the list, and the employee with the lowest efficiency rating at the bottom of the list. Layoff will be in inverse order beginning at the bottom of the list and the total number of positions in the class to be abolished will determine the number of employees to be laid off. Should two or more employees have the same efficiency rating, the order of layoff will be determined by giving preference for retention in the following sequence:

- (a) A veteran shall have preference over a non-veteran.
- (b) The employee with the longest service in the class.
- (c) The employee with the longest departmental service.
- (d) In case of further ties, the Director shall make a determination consistent with these rules.

~~(11 13)~~ Employees laid off ~~in good standing~~ will be placed on the layoff reemployment register for two years. Further, during this time period the department involved may not hire persons in the class from any register, or provisionally, as long as one available employee laid off by the department is on the layoff reemployment register for the class, provided, however, that a person who refuses an offers of reemployment shall forfeit such rights to subsequent placements, ~~as provided under Rule 670-X-9-.02, Subsection 5; Removal of Names from the Register. (See last paragraph of this section for provisions of Act No. 83-493, 1983 Regular Session, Alabama State Legislature.)~~ In addition to any rights currently provided to state employees, any permanent state employee who is laid off from a position under the State Merit System shall have priority for any other position in the same class filled from an open competitive register by an appointing authority in accordance with rules adopted by the Board.

~~(12 14)~~ Any laid off person who is reemployed within the prescribed two year period from the layoff reemployment register shall not be required to serve a probationary

period if reemployed in the ~~Department~~ department and the job class from which laid off.

(~~13~~ 15) An employee who bumps to a lower class in a ~~related~~ the series as a result of layoff shall be reinstated to the former higher class with permanent status and at the pay step that the employee would have attained had he remained in the class, as long as it is within the two year period and the appointing authority chooses to fill it. ~~whenever a vacancy occurs in such higher class within the department, provided, however, that a~~ An employee who accepts a voluntary demotion in the department in lieu of a layoff and who, within two years, is ~~subsequently~~ promoted to the class from which the employee ~~was voluntarily demoted in lieu of layoff~~ may be ~~promoted~~ returned with permanent status to the pay step that the employee would have attained had he remained in that class at the discretion of the ~~department head~~ appointing authority. Such ~~promotion~~ appointment shall be considered a return to former status and does not entitle the employee to a promotional raise or a probationary raise.

(~~14~~ 16) The appointing authority must give the employee(s) to be laid off written notice which includes reasons: ~~For example i.e.,~~ shortage of work or funds, abolition of a position, or material change in duties or organizations. Reasonable advance notice should take into consideration the needs of the employee as well as the agency; however, where possible should be at least ten (10) working days. In addition, the appointing authority shall make all reasonable effort to provide the following information to each employee both orally and/or in writing:

(a) Benefits to which employees may be entitled, i.e., unemployment compensation procedure, employment rights, options available for health insurance, retirement.

(b) Efforts toward alternative jobs.

(~~15~~ 17) The plan as adopted by the appointing authority shall be available upon written request for perusal by an employee or former employee adversely affected.

~~In addition to any rights currently provided to state employees, any permanent state employee who is laid off from a position under the state merit system shall~~

~~have priority for any other position in the same class filled from an open competitive register by any appointing authority in accordance with rules adopted by the State Personnel Board. Revised by Act No. 83-493, 1983 Regular Session of Alabama State Legislature.~~

(18) An agency or appointing authority may enact a voluntary furlough plan for employees if the voluntary furlough plan is approved by the Department. Any furlough plan adopted by an agency or appointing authority shall be applicable to the entire agency affected and shall be voluntary at the sole discretion of the employee. The employee shall remain whole, including, but not limited to, his state retirement, state insurance, including, but not limited to, family coverage, other state benefits, leave, time of service, and status.

**Author:**

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

**History:** Filed September 29, 1981. **Amended:** Filed February 23, 1983; effective March 30, 1983. Amended by virtue of Legislative Act. No. 83-493; Amendment adopted April 21, 1993, effective June 15, 1993. **Amended:** March 19, 2015, effective\_\_\_\_\_.

**670-X-18-.02 Dismissals.**

(1) An appointing authority may dismiss a classified employee whenever he considers the good of the service will be served thereby, for reasons which shall be stated in writing, served on the affected employee and a copy furnished to the Director, which action shall become a public record.

(2) The dismissed employee may, within 10 days after receipt of written notice, appeal from the action of the appointing authority by filing with the Board and the appointing authority a written answer to the charges. The Board shall, if demand is made in writing by the dismissed employee within 10 days after receipt of written notice of discharge, order a public hearing and, if the charges are proved unwarranted, order the reinstatement of the employee under such conditions as the Board may determine. Upon a majority vote of the Board, the Board may impose a punishment other than termination including but not limited

to a reinstatement with forfeiture of back wages and benefits between the date of termination and the date of the Board's order reinstating the employee, or a suspension up to and including 30 calendar days. (For hearing procedure, see Rule 670-X-5-.08.)

(3) In addition to removal by an appointing authority, persons in the classified service may be removed or disciplined in the manner described in this subsection. Charges may be filed by any officer, citizen or taxpayer of the state with the Director who shall, within five days, cause a copy to be served upon the person complained against and shall set a day not less than 10 nor more than 20 days after such charges have been served on such employee for a public hearing of such charges. This hearing may be before the Director, a special agent appointed for the purpose by the Director or the Board itself. If before the Director or a special agent, the Director or special agent shall take testimony offered in support and denial of such charges and from the same submit to the Board, within five days, a finding of facts and law involved and a recommended decision. The Board at its next regular or special meeting shall consider said report and modify, alter, set aside or affirm said report and certify its findings to the appointing authority who shall forthwith put the same into effect. If the Board hears said charges directly or requires the transcribing and submission of the testimony taken before the Director or special agent, it shall make up and file its own findings and decision. The decision of the Board based upon its records and the testimony shall be final. (For hearing procedure, see Rule 670-X-5-.08.)

(4) In proceedings under this section, it shall be no defense or excuse for a forbidden act or for an omission to observe the laws or rules that such act or omission was directed by a superior, unless a written direction or order from such superior to that effect is proved. If any employee in the state service shall willfully refuse or fail to appear before any court or judge, any legislative committee or any officer, board or body authorized to conduct any hearing or inquiry or, having appeared, shall refuse to testify or answer any question relating to the affairs or government of the state or the conduct of any state officer or employee on the ground that his testimony or answers would tend to incriminate him or shall refuse to waive immunity from

prosecution on account of any matter about which he may be asked to testify at any such hearing or inquiry, such conduct shall be cause for removal.

(5) In all cases, before dismissing a permanent employee, the appointing authority shall consider the previous disciplinary and performance history of the employee and any progressive discipline received.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§36-26-27, 36-26-29.

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

**670-X-18-.03      Suspensions.**

(1) An appointing authority from time to time may peremptorily suspend any employee without pay or other compensation as punishment for improper behavior, but such suspension or total suspension of the person by the appointing authority ~~of the person~~ shall not exceed thirty calendar days in any year of service. Such suspension with loss of pay may be effected only by service upon the employee by the appointing authority of written charges setting out clearly the delinquency for which the suspension was made, a copy of which must be at the same time mailed or delivered to the Director. The suspended employee shall have a right to file with the appointing authority a written answer or explanation of such charges.

(2) The suspended employee may within 10 days after notice pursuant to this section file a written notice of appeal from the suspension. If the suspended employee gives notice of appeal from the suspension, the appointing authority shall have the discretion of whether to stay the suspension pending the disposition of the appeal or proceed with the suspension and provide the employee with a post-suspension review subject to the time frames prescribed herein.

(a) If a timely notice of appeal is filed, the appointing authority shall elect between one of the following methods of reviewing the claim. The appointing authority shall, within ten (10) days after receipt of the appeal, do one of the following:

(i) Appoint a panel as provided for in subsection (3) to decide questions of fact, conclusions of law, and make recommendations to the appointing authority.

(ii) Appoint a designated hearing officer as provided for in subsection (4) who will decide questions of fact, conclusions of law and make recommendations to the appointing authority.

(b) This subsection shall apply only to a department or agency of the state that has 25 or more employees for each working day during each of 20 or more calendar weeks in the current or preceding calendar year.

(3) In instances where the appointing authority elects to appoint a panel, the panel shall consist of three individuals, two of whom shall be in the same or equivalent classification as the suspended employee. The panel, by majority vote, may recommend to the appointing authority, after a hearing, either of the following:

(a) That the charges are unwarranted and that the suspension be revoked.

(b) That the charges are warranted and that the suspension be upheld.

(4) In instances where an appointing authority elects to appoint a hearing officer, the hearing officer shall be selected from a ~~jointly approved~~ list of individuals ~~agreed upon~~ maintained by the Alabama State Employees Association and the respective department or agency Department. ~~This process shall be repeated annually.~~ The appointed hearing officer may be employed by the appointing authority, but shall be independent of the division or area in which the employee works. Any challenge to the appointment of an independent hearing officer shall be made to the Director within five days of notification of the appointment. However, a hearing officer may also be appointed from the Governmental Hearing Officer register, which is compiled and maintained by the Department.

(5) Irrespective of which method the appointing authority selects for adjudicating a suspension appeal hearing, all hearings shall be conducted in accordance with the notions of due process.

(6) The burden of proof shall lie with the appointing authority to prove the charges forming the basis of the suspension.

(7) Those departments or agencies that, by August 1, 2001, already had in place an existing process for suspension hearings may continue to use the existing process, provided that they observe tenets of due process including that the burden of proof shall lie with the appointing authority.

(8) This rule shall not apply to any department which employed, as of August 1, 2001, and continues to employ as a standard practice in such cases a pre-disciplinary hearing before an independent hearing officer who makes a recommendation for disciplinary action to the appointing authority based upon a fair hearing of the matter.

(9) This rule shall not apply to any department which currently employs and continues to employ as a standard practice in such cases an appeal hearing before an in-house hearing officer independent of the division or area in which the employee works. Said hearing officer shall be selected from an approved list of individuals ~~who shall be jointly agreed upon by the Alabama State Employees Association and the respective department or agency maintained by the Department.~~ This process shall be repeated annually.

**Author:** Jackie B. Graham, State Personnel Director  
**Statutory Authority:** Code of Ala. 1975, §§36-26-9, 36-26-28.

**History:** Filed September 29, 1981. **Amended:** Filed June 17, 1983; effective May 24, 1985. **Amended:** Filed May 22, 2006; effective June 26, 2006. **Amended:** March 19, 2015, effective\_\_\_\_\_.

670-X-18-.04     Resignations.

(1)            Upon voluntary separation from the classified service, an employee shall submit to his appointing authority a letter of resignation. Within ten days of receipt of such letter of resignation, the appointing authority or his designee shall enter thereon his acceptance and shall give such letter to the Director or his designee, together with a certificate that the employee's services have or have not been satisfactory and that the employee is or is not recommended for placement on a reemployment list.

(2)            An employee's actions may be deemed a resignation when he has abandoned his job for three days of unexcused, unreported absence.

(~~2~~ 3)        Any person who has served satisfactorily as a permanent employee of the classified service, and who has been separated therefrom by written resignation which is approved by the Director as constituting a separation from the service in good standing may request the Director to place his name on a reemployment list. Such request shall be made in writing within two years of the date of resignation. The Director shall review the circumstances of separation and may place the name of such person on the reemployment list he deems appropriate. ~~Provided,~~ provided that the resigned employee has not participated in any activities which would have been grounds for dismissal had he remained in the state service during the interim.

**Author:**

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

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

CHAPTER 670-X-19  
EMPLOYEE WORK RULES

TABLE OF CONTENTS

670-X-19-.01 General Work Rules  
670-X-19-.02 Prohibition of Political Activities  
670-X-19-.03 Other Employment

670-X-19-.01 General Work Rules.

(1) In addition to any special rules issued by the various appointing authorities for the guidance of their employees, the following standard general work rules shall apply to all classified employees:

(a) Violations that normally result in disciplinary actions of increasing severity:

~~1. Violations of safety rules.~~

~~2~~ 1. Absenteeism - Unexcused absence, unreported absence, a pattern of absences, or excessive absences.

~~3~~ 2. Tardiness - Not on the job ready to work at the beginning of the shift.

~~4~~ 3. Inattention to job - Doing anything distracting while on the job.

~~5~~ 4. Failure to perform job properly.

~~6. Leaving job station without permission.~~

~~7. Disruptive conduct of any sort.~~

~~8~~ 5. Abuse of equipment.

~~9~~ 6. Unauthorized and/or unlicensed operation of vehicles, machinery, or equipment.

~~10~~ 7. Participation in unauthorized activity or solicitations on work premises.

~~11. Poor housekeeping.~~

~~12. Unauthorized use of telephones.~~

~~13. Unauthorized use of bulletin boards.~~

14 8. Violation of specific department rules.

(b) More serious violations that may result in suspension or discharge on the first offense, ~~considering work record and length of service.~~

1. Violations of safety rules ~~which endanger life or property.~~

2. Insubordination - Failure to follow an order; disobedience; failure to submit to authority as shown by demeanor or words, with the one exception of not following an order which the employee has good reason to believe is unsafe or illegal.

3. Theft or unauthorized possession of company property.

4. Fighting.

5. Use of abusive or threatening language.

6. Falsification of records - Application for Employment, time card, doctor's excuse, etc.

7. Possession and/or use of alcohol, narcotics, or ~~dangerous weapons~~ other illegal substance on/in state property.

8. Sleeping on the job.

9. Leaving before the end of the ~~shift~~ normal scheduled work hours/walking off the job.

10. Serious violation of any other department rule.

11. ~~Job abandonment which consists of three days of unexcused, unreported absence.~~ Leaving job station without permission.

12. Disruptive conduct of any sort.

13. Conduct unbecoming a state employee.

14. Destruction of state documents or records.

15. Unauthorized possession of a firearm in a state building.

(2) The listing of violations above is not meant to be all inclusive and does not imply that discipline may not be imposed for other sufficient reasons nor does it mean that termination cannot occur for the first violation.

**Author:**

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

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

**670-X-19-.02 Prohibition Of Political Activities.**

(1) No person shall be appointed or promoted to or demoted or dismissed from any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified service because of his political or religious opinions or affiliations.

(2) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the classified service.

(3) No person shall use or promise to use, directly, or indirectly, any official authority or influence whether possessed or anticipated, to secure or attempt to secure, for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration.

(4) No employee in the classified service and no member of the Board shall, directly or indirectly, pay or promise to pay any assessment, subscription or contribution for any political organization or purpose or solicit to take any part in soliciting any such assessment, subscription or contribution under coercion; provided, however, it shall be unlawful for any officer or employee to solicit any type political campaign contributions from other employees who work for said officer or employee in a subordinate capacity.

(5) No employee in the classified service shall be a member of any national, state or local committee of a political party or an officer of a partisan political club or a candidate for nomination or election to any public office or shall take any part in the management or affairs of any political party or in any political campaign, except on his personal time and to exercise his right as a citizen privately to express his opinion and to cast his vote; provided, however, that nothing in this section shall prohibit any person in the classified service from serving at the time this chapter goes into effect.

(6) Any employee in the classified service may engage in political action or political activities on personal time before and after work, holidays and during approved leave.

(7) Any officer or employee in the classified service who violates any of the foregoing provisions of this section shall forfeit his office or position. Revised by Act No. 83-497, 1983 Regular Session of the Alabama State Legislature.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 36-26-1, et seq.

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

**670-X-19-.03 Other Employment.**

No employee shall engage in any other employment during his normally scheduled work hours. Scheduled work hours includes those hours for which leave must be taken.

**Author:** Jackie B. Graham

**Statutory Authority:** Code of Ala. 1975, §§ 36-26-1, et seq.; 36-1-11.

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