

# Draft Amendments to Civil Service Rules

## Interim Rule Action by SPD and Chair

Draft Revision A (August 26, 2009)

[Added text is double-underlined. Deleted text is ~~struck through~~.]

### STAFF COMMENTS:

- **Repeal Rule 1-1.4.** Currently, Rule 1-1.4 authorizes the state personnel director, with the consent of the chair of the commission, to approve interim amendments to the rules. This proposal would repeal Rule 1-1.4, thereby prohibiting the SPD from approving interim rule amendments. If this proposal is adopted, all future rule changes (except for emergency rules currently authorized in Rule 6-14) would require full commission approval before taking effect.
- **Move revised version of Rule 1-1.4 to Rule 6-14.** If Rule 1-1.4 is repealed, the SPD would also lose the authority to give interim approval to letters of understanding (LOUs) amending collective bargaining agreements (CBAs). As a practical matter, Commission review of LOUs is generally limited solely to determining if the LOUs violate the commission's rules on prohibited subjects of bargaining. The staff proposes that the SPD retain the authority to give interim approval to LOUs. Therefore, this proposal adds a revised version of Rule 1-1.4 to Rule 6-14 to expressly authorize interim approval of LOUs by the SPD with the consent of the Chair.

## 1 **Rule 1-1 Rules and Amendments**

### 2 **1-1.1 Circulation of Proposed Amendments for Comment**

3 The state personnel director shall give written notice to all appointing authorities and recognized  
4 employee organizations of any proposed amendments to these rules at least 28 calendar days  
5 before final action by the civil service commission. If the written notice has been given at least  
6 14 calendar days at the time action is to be taken, the commission may waive the 28-day notice  
7 requirement by the affirmative vote of a majority of a quorum if the notice of the proposed  
8 amendment provided an opportunity for comment and notification of the date and place of the  
9 meeting at which the proposed revision is first considered. The commission may further modify  
10 a proposed amendment or defer final action to a subsequent meeting without further written  
11 notice.

1 **1-1.2 Effective Date**

2 An amendment to these rules becomes effective upon approval by the civil service commission,  
3 unless the commission orders otherwise.

4 **(a) Recirculation.** If, during consideration, the commission substantially modifies a proposed  
5 amendment as circulated, the commission may order that the rule be recirculated as  
6 approved to appointing authorities and recognized employee organizations. A person may  
7 file an objection to the rule within 14 calendar days after the date of publication. The rule  
8 becomes effective 21 calendar days after publication, unless the commission establishes a  
9 later effective date or unless the state personnel director authorizes a delay in the effective  
10 date, as provided in subsection (b).

11 **(b) Delay of effective date.** If the state personnel director, after review of any objections, finds  
12 in the director’s sole discretion that the objections are so substantial that they merit further  
13 consideration by the commission, the director is authorized to delay the effective date of  
14 such rule until the next meeting of the commission. The revision becomes effective  
15 immediately upon the adjournment of the first commission meeting following action by the  
16 state personnel director delaying the effective date unless the commission orders otherwise.

17 **1-1.3 Emergency Rule Action by Commission**

18 In situations requiring immediate action or when a proposed amendment has been circulated for  
19 less than 14 calendar days, the civil service commission may waive the requirements of notice  
20 and approve an amendment to these rules upon unanimous vote of a quorum. The commission’s  
21 determination that a situation requires immediate action is conclusive.

22 ~~**1-1.4 Interim Rule Action by Director and Chair**~~

23 ~~If the state personnel director determines that the efficient and orderly administration of the~~  
24 ~~classified service requires that a rule be waived or modified, the director, with the consent of the~~  
25 ~~chair of the civil service commission, may temporarily waive or modify any rule. The~~  
26 ~~modification or waiver is effective immediately upon written authorization by the director and is~~  
27 ~~in effect only until the next meeting of the commission. The director shall place the waiver or~~  
28 ~~modification on the agenda for the next meeting of the commission. If a majority of a quorum of~~  
29 ~~the commission does not approve the waiver or modification before the adjournment of that~~  
30 ~~meeting, the waiver or modification expires. Failure of the commission to approve the waiver or~~  
31 ~~modification does not void actions taken in reliance on the interim rule action while the waiver~~  
32 ~~or modification was effective. Rules 1-1.1 and 1-1.3 do not apply to commission action related~~  
33 ~~to interim rule action by the state personnel director.~~

34 **1-1.54 Rule-making through Adjudicative Proceedings**

35 In addition to the legislative process provided in this rule, the civil service commission may also  
36 amend the rules by order in an individual adjudicative proceeding. An order amending the rules  
37 becomes effective upon issuance by the commission, unless the order provides otherwise.

1 \* \* \*

## 2 **6-3 Commission Authority**

### 3 **6-3.1 Commission Relationship to Collective Bargaining**

4 The ability of eligible employees to elect an exclusive representative and engage in collective  
5 bargaining is a privilege granted by the civil service commission under its exclusive  
6 constitutional authority. However, the commission cannot delegate its constitutional  
7 responsibilities to the collective bargaining parties and the privilege to engage in collective  
8 bargaining remains subject to the commission's sovereign authority and the rules of the  
9 commission.

10 **(a) Review and approval required.** A collective bargaining agreement or any provision of a  
11 collective bargaining agreement cannot take effect or be enforceable between the parties  
12 unless the civil service commission has reviewed and approved the agreement or provision,  
13 [except as provided in rule 6-14.](#)

14 \* \* \*

## 15 **Rule 6-14 Administration**

### 16 **6-14.1 Authority of Director**

17 In addition to the powers specifically delegated to the state personnel director in these rules, the  
18 director has the general authority to request and receive data, hold hearings, resolve jurisdictional  
19 disputes, issue orders, including cease and desist orders, and issue other orders and regulations  
20 not inconsistent with the rules. The director may further delegate any of the director's authority,  
21 in whole or in part, unless prohibited by these rules.

### 22 **6-14.2 Emergency Rules**

23 The state personnel director may issue emergency rules without action by the civil service  
24 commission if the director deems it necessary to preserve peaceful labor relations. An emer-  
25 gency rule is effective when issued and remains in effect until the next commission meeting.  
26 The director shall place the emergency rule on the agenda for the next commission meeting. If a  
27 majority of a quorum of the commission does not approve the emergency rule before the  
28 adjournment of that meeting, the emergency rule expires. Failure of the commission to approve  
29 the emergency rule does not void actions taken in reliance on the emergency rule action while  
30 the emergency rule was effective.

1 ~~1-1.4~~ 6-14.3 Interim ~~Rule Action~~ Amendments by Director and Chair

2 If the state personnel director determines that the efficient and orderly administration of the  
3 classified service requires that an ~~rule be waived or modified~~ amendment to a collective  
4 bargaining agreement submitted by the parties be given interim approval, the director, with the  
5 consent of the chair of the civil service commission, may temporarily ~~waive or modify any rule~~  
6 approve the amendment. The ~~modification or waiver~~ amendment is effective immediately upon  
7 written authorization by the director and is in effect only until the next meeting of the  
8 commission. The director shall place the ~~waiver or modification~~ amendment on the agenda for  
9 the next meeting of the commission. If a majority of a quorum of the commission does not  
10 approve the ~~waiver or modification~~ amendment before the adjournment of that meeting, the  
11 ~~waiver or modification~~ amendment expires. Failure of the commission to approve the ~~waiver or~~  
12 ~~modification~~ amendment does not void actions taken in reliance on the interim ~~rule action~~  
13 amendment while the ~~waiver or modification~~ amendment was effective. ~~Rules 1-1.1 and 1-1.3~~  
14 ~~do not apply to commission action related to interim rule action by the state personnel director.~~

15 ~~6-14.3~~ 34 Appeals

16 A party adversely affected by a decision of the state personnel director under this rule may file  
17 an application for leave to appeal to the civil service commission.  
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