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GENERAL CIRCULAR NUMBER 2020-028

DATE: April 24, 2020

TO: Heads of State Agencies and Human Resources Directors

SUBJECT: COVID-19 – No. 21: Proposed changes to Chapters 1, 11 and 27 of the Civil Service Rules

This general circular provides an outline of proposed changes to Chapter 27 of the State Civil Service Rules and proposed emergency rules under Chapters 1 and Chapter 11. These proposals will be presented to the State Civil Service Commission at its regularly scheduled business meeting on Wednesday, May 6, 2020. The meeting will be held in the Louisiana Purchase Room of the Claiborne Building, 1201 North Third Street, Baton Rouge, at 1 p.m. Individuals who wish to comment should provide feedback prior to the meeting in writing to the Director of the Department of State Civil Service at Post Office Box 94111, Baton Rouge, Louisiana, 70804-9111. Comments may also be directed to the attention of the civilservicecommission@la.gov.

EXHIBIT A SUMMARY: CHANGES TO CHAPTER 27 EMERGENCY RULES

Exhibit A outlines the Director's recommendation to the Commission to repeal the following provisions of Chapter 27 effective May 6, 2020:

- 27.1 Sick Leave Expansion
- 27.2 Special Paid Leave
- 27.3 Required Sick Leave
- 27.9 Supporting Documentation

Please note the following provisions have already expired or have been extended under the Director's authority:

- 27.1(b) (Sick Leave Expansion for Childcare): Extended until May 6, 2020
- 27.2(a)2 (Special Paid Leave for Childcare): Expired April 13, 2020
- 27.7 (Suspension of Deadlines): Extended and Expires on May 31, 2020.

Unless Rule 27.7 is further extended by the Commission at the May 6, 2020 meeting, it will expire on May 31, 2020. Please note that this is not an extension of 30 days from May 31, 2020, i.e. until June 30, 2020. All actions or documentation that have been delayed under Rule 27.7 must be completed and submitted by May 30, 2020. As of May 31, 2020, all deadlines are in full force and effect.

The remaining provisions of these rules are set to expire upon Order of the Commission or in 120 days from first adoption (July 16, 2020), whichever comes first.

EXHIBIT B SUMMARY: PROPOSED EMERGENCY RULES TO CHAPTER 1 and CHAPTER 11

Exhibit B outlines proposed changes that will be considered by the Commission for adoption on an emergency basis in accordance with Rule 2.10(f). In summary, these proposals will allow for the following:

- An employee to use sick leave to care for an immediate family member
- An employee to use sick leave to care for a child due to a school closure or childcare provider closure related to COVID-19 through December 31, 2020
- An employee with a high-risk immunological disorder to use sick leave to be away from the workplace to avoid a health exposure during a declared health pandemic
- An Appointing Authority to enforce sick leave under certain conditions
- Special paid leave for absences related to COVID-19 for emergency responders and healthcare providers exempted from the Families First Coronavirus Response Act
- End special paid leave under 11.23(d) (Act of God) for all employee absences related to COVID-19 effective May 31, 2020
- Grant the Director the authority to reinstate emergency paid leave under 11.23(d) (Act of God) for absences related to COVID-19 in the event the need arises due to a resurgence in the pandemic

EXHIBIT A: CHANGES TO CHAPTER 27 EMERGENCY RULES

EMERGENCY RULE 27.1 SICK LEAVE EXPANSION

The Department recommends repealing all provisions of this emergency rule. In addition, the Department is proposing emergency rules under Chapter 1 and Chapter 11 to address the expansion of sick leave to immediate family members. Other proposals include provisions to allow for the use of sick leave to care for a child whose school or place of care has closed due to COVID-19 related reasons and to provide for the use of sick leave by individuals with high-risk immunological disorders during a declared health pandemic by the Governor. *Please refer to Exhibit B for details.*

CURRENT	PROPOSED
<p>27.1 Sick Leave Expansion An appointing authority may grant sick leave for the following reasons: (a) To care for a spouse or dependent child residing in his household who has been positively diagnosed with COVID-19; (b) To care for a dependent child residing in his household due to a school closure related to COVID-19; or <i>Provision (b) of this rule was extended by the Civil Service Director until 12:01 a.m. on April 30, 2020.</i></p>	<p>Repealed by Order of the Commission effective May 6, 2020.</p>

<p><i>Provision (b) of this rule was extended by the Civil Service Director until 12:01 a.m. on May 6, 2020.</i></p> <p>(c) To an employee with high-risk immunological disorders to be away from the workplace to avoid exposure to COVID-19.</p>	
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EMERGENCY RULE 27.2 SPECIAL PAID LEAVE

The Department recommends repealing all provisions of this emergency rule.

CURRENT	PROPOSED
<p>27.2 Special Paid Leave (a) After an employee has exhausted all sick, compensatory and annual leave, the appointing authority may grant the employee special leave under Rule 11.23(d) for the following reasons:</p> <ol style="list-style-type: none"> 1. To care for a spouse or dependent child residing in his household who has been positively diagnosed with COVID-19; 2. To care for a dependent child residing in his household due to a school closure related to COVID-19; <p><i>Provision (a)2 of this rule was NOT extended, and expired at 12:01 a.m. on April 13, 2020.</i></p> <ol style="list-style-type: none"> 3. To care for himself due to a positive diagnosis of COVID-19; or 4. To allow for an employee with high risk immunological disorders to be away from the workplace to avoid exposure to COVID-19. <p>(b) An appointing authority is authorized to grant special leave out of an abundance of caution and in the best interest of the agency for situations related to COVID-19 not otherwise addressed herein.</p>	<p>Repealed by Order of the Commission effective May 6, 2020.</p>

EMERGENCY RULE 27.3 REQUIRED SICK LEAVE

The Department recommends repealing this emergency rule. In addition, the Department is proposing emergency rules under Chapter 11 to provide for enforced sick leave by an appointing authority.

CURRENT	PROPOSED
<p>27.3 Required Sick Leave An appointing authority may place an employee on sick leave and require that he remove himself from the workplace when he has declined to utilize sick leave but presents for duty displaying</p>	<p>Repealed by Order of the Commission effective May 6, 2020.</p>

<p>symptoms associated with COVID-19 including fever, cough and/or shortness of breath. For this rule to apply, the symptoms must be observed by at least two individuals, one of whom must be in a supervisory position. The employee may be returned to duty at the appointing authority's discretion; however, he shall be returned to duty upon presentation of a certification from a medical doctor or nurse practitioner who, after personally examining the employee, certifies that he is capable of performing the essential functions of his position without posing a risk of harm to himself or others. If the employee is diagnosed with COVID-19, the provisions of Rule 27.2(a)3 apply; otherwise, regular sick leave rules under Chapter 11 shall apply.</p>	
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EMERGENCY RULE 27.4 LIMITATION OF CIVIL SERVICE RULE 12.6

The Department does not recommend any changes to this emergency rule. This rule will expire upon Order of the Commission or in 120 days (July 16, 2020), whichever comes first.

CURRENT	PROPOSED
<p>27.4 Limitation of Civil Service Rule 12.6 For the duration of this Chapter, an appointing authority shall not non-disciplinarily remove an employee for exhaustion of sick leave or unscheduled absences related to COVID-19.</p>	<p>NO CHANGES</p>

EMERGENCY RULE 27.5 OVERTIME PAY EXPANSION

The Department does not recommend any changes to this emergency rule. This rule will expire upon Order of the Commission or in 120 days (July 16, 2020), whichever comes first.

CURRENT	PROPOSED
<p>27.5 Overtime Pay Expansion For the duration of this Chapter, state overtime performed by both exempt and non-exempt employees related to the COVID-19 pandemic may be paid at the time and one-half rate.</p>	<p>NO CHANGES</p>

EMERGENCY RULE 27.6 DELEGATION OF AUTHORITY OF DIRECTOR

The Department does not recommend any changes to this emergency rule. This rule will expire upon Order of the Commission or in 120 days (July 16, 2020), whichever comes first.

CURRENT	PROPOSED
<p>27.6 Delegation of Authority of Director</p>	<p>NO CHANGES</p>

<p>Because guidance from healthcare authorities and government officials is constantly changing due to the fluidity of the COVID-19 situation, the authority granted to the Director in Civil Service Rule 3.1(k) is expanded to allow the Director to act between meetings on non-routine matters requiring Commission approval including, but not limited to, work schedules, leave, compensation and staffing matters of an urgent nature related to COVID-19. Such authority includes, but is not limited to, authority to promulgate emergency rules to address these matters.</p>	
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EMERGENCY RULE 27.7 SUSPENSIONS OF DEADLINES

The Department does not recommend any changes to this emergency rule. This rule will expire at 12:01 a.m. on May 31, 2020, unless extended by the Commission or the Director. No extensions would extend beyond 120 days (July 16, 2020) allowed under emergency rule provisions. Unless this Rule is extended by the Commission at the May 6, 2020 Commission meeting, it will expire on May 31, 2020. Please note that this is not an extension of 30 days from May 31, 2020, i.e. until June 30, 2020. All actions or documentation that have been delayed under Rule 27.7 must be completed and submitted by May 30, 2020. As of May 31, 2020, all deadlines are in full force and effect.

CURRENT	PROPOSED
<p>27.7 Suspension of Deadlines All deadlines imposed by the Civil Service Rules are suspended for thirty calendar days effective March 18, 2020, unless such suspension is extended by the Commission or the Director. This provision does not apply to deadlines imposed by the Constitution, including the 15-day period for filing an Application for Review of a Referee’s decision and the 30-day period for appealing the Commission’s decision to the Court of Appeal. <i>The provisions of this rule were extended by the Civil Service Director until 12:01 a.m. on April 30, 2020.</i> <i>The provisions of this rule were extended by the Civil Service Director until 12:01 a.m. on May 31, 2020. Unless this Rule is extended by the Commission at the May 6, 2020 Commission meeting, it will expire on May 31, 2020.</i></p>	<p>NO CHANGES</p>

EMERGENCY RULE 27.8 SPECIAL MEETING RULES

The Department does not recommend any changes to this emergency rule. This rule will expire upon Order of the Commission or in 120 days (July 16, 2020), whichever comes first.

CURRENT	PROPOSED
<p>27.8 Special Meeting Rules During the COVID-19 pandemic declaration of emergency in the State of Louisiana and in the absence of ability to otherwise establish a quorum, as certified and posted with the meeting agenda, Commission members who are unable to attend a meeting of the Civil Service Commission in person due to conditions closely and directly related to the pandemic may attend and participate in the meeting via electronic means. Except for executive session, deliberations involving Commission members participating electronically must be conducted in such a manner that all members and the public can hear.</p>	<p>NO CHANGES</p>

EMERGENCY RULE 27.9 SUPPORTING DOCUMENTATION

The Department recommends repealing this emergency rule. In addition, the Department is proposing emergency rules under Chapter 11 that would allow for documenting the need to care for a child due to a school closure or a childcare provider being unavailable.

CURRENT	PROPOSED
<p>27.9 Supporting Documentation Appointing Authorities may require appropriate documentation to establish a need for leave as set forth in Rules 27.1 and 27.2.</p>	<p>Repealed by Order of the Commission effective May 6, 2020.</p>

EMERGENCY RULE 27.10 EXPIRATION OF RULE

The Department does not recommend any changes to this emergency rule. This rule will expire upon Order of the Commission or in 120 days (July 16, 2020), whichever comes first. The provisions of 27.2(a)2 expired by authority of the Director on April 13, 2020. The provisions of 27.1(b) will expire on May 6, 2020, by authority of the Director.

CURRENT	PROPOSED
<p>27.10 Expiration of Rule This Rule is effective prospectively from March 18, 2020. The provisions of Rule 27.1(b) and 27.2(a)2 shall expire at 12:01 a.m. on April 13, 2020 unless extended by the Commission or the Director. The remaining provisions of this Rule expire upon Order of the Commission or in 120 days, whichever comes first.</p>	<p>NO CHANGES</p>

EXHIBIT B: PROPOSED EMERGENCY RULES TO CHAPTER 1 and CHAPTER 11

CHAPTER 1: DEFINITION AND TERMS USED IN THE RULES	
CURRENT RULE	PROPOSED RULE
	1.15.2.4 'Immediate Family Member' for the purposes of sick leave is an employee's spouse, child or stepchild, foster-child, parent or stepparent.
1.39.1 'Sick Leave' is leave with pay granted an employee who is suffering with a disability which prevents him from performing his usual duties and responsibilities or who requires medical, dental, or optical consultation or treatment.	1.39.1 'Sick Leave' is leave with pay granted to an employee who is suffering with an illness or injury a disability which prevents him from performing his usual duties and responsibilities or who requires medical, dental, or optical consultation or treatment, or who requires the need to care for an immediate family member with similar circumstances.

CHAPTER 11: HOURS OF WORK AND TYPES OF LEAVE SUCH AS ANNUAL, SICK, COMPENSATORY, SPECIAL, ETC.	
CURRENT RULE	PROPOSED RULE
11.13 Use of Sick Leave	11.13 Use of Sick Leave
<p>(a) Sick leave may be utilized by an employee who has sufficient leave to his credit for necessary absence from duty because of:</p> <ol style="list-style-type: none"> 1. Illness or injury, which prevents him from performing his usual duties. 2. Medical, dental, or optical consultation or treatment. 3. Repealed, effective January 1, 1963. <p>(b) Sick leave shall not be charged for non-work days.</p> <p>(c) Each appointing authority shall select a method to charge the sick leave records of all employees. The minimum charge to sick leave records shall be not less than one-tenth hour (6 minutes) nor more than one-half hour.</p> <p>(d) Repealed, effective June 30, 1972.</p> <p>(e) The appointing authority shall use the same method for charging to leave records for both annual and sick leave.</p>	<p>(a) Sick leave may be utilized by an employee who has sufficient leave to his credit for necessary absence from duty because of:</p> <ol style="list-style-type: none"> 1. Illness or injury, which prevents him from performing his usual duties. 2. Medical, dental, or optical consultation or treatment for the duration of time required for such appointments when it is not possible to arrange such appointments for non-duty hours. 3. Repealed, effective January 1, 1963. 4. Illness, or injury in the immediate family which necessitates the absence. 5. Medical, dental, or optical consultation or treatment for immediate family members when it is not possible to arrange such appointments for non-duty hours. 6. Assertion, supported by medical certification, of his need to be isolated from the workplace to avoid a health risk exposure during a health pandemic declared by the Governor

	<p>because of his diagnosed high-risk immunological disorder.</p> <p>7. The need to care for a dependent child through December 31, 2020, because the child’s school or place of care has been closed or the childcare provider is unavailable due to a COVID-19 related reason.</p> <p>(b) Sick leave shall not be charged for non-work days.</p> <p>(c) Each appointing authority shall select a method to charge the sick leave records of all employees. The minimum charge to sick leave records shall be not less than one-tenth hour (6 minutes) nor more than one-half hour.</p> <p>(d) Repealed, effective June 30, 1972.</p> <p>(e) The appointing authority shall use the same method for charging to leave records for both annual and sick leave.</p> <p>(f) An appointing authority may require appropriate documentation to establish the need for leave as set forth above.</p>
<p>11.13.1 Enforced Sick Leave</p>	<p>11.13.1 Enforced Sick Leave</p>
<p>An appointing authority may place an employee on sick leave when the employee asserts the need to be absent from the workplace because of the employee's illness or injury.</p>	<p>An appointing authority may place an employee on sick leave when:</p> <p>(a) the employee asserts an inability to work due to the need to be absent from the workplace because of the employee’s illness or injury.</p> <p>(b) there is an apparent need to remove the employee from the workplace to avoid the spread of illness.</p> <p>Under subsection (b) an appointing authority may place an employee on sick leave and require that he remove himself from the workplace when he has declined to utilize sick leave and presents for duty displaying symptoms of illness. In order to enforce sick leave under this subsection, the symptoms must be observed by at least two individuals, one of whom must be in a supervisory capacity. The employee may be returned to duty at the appointing authority’s discretion; however, he shall be returned to duty upon presentation of a certification from a medical doctor or nurse practitioner who, after examining the employee, certifies that he is capable of performing the</p>

	essential functions of his position without posing a risk of harm to himself or others.
CURRENT RULE	11.35 Special Leave Related to COVID-19 Health Pandemic
	<p>An appointing authority may grant time off without loss of pay, annual leave or sick leave to any healthcare provider or emergency responder who was exempted from the Families First Coronavirus Response Act by the Governor's Proclamation Order No. 43 JBE Section 4 and who has tested positive for COVID-19 or who has been advised by a healthcare provider to self-quarantine related to COVID-19, or experiencing COVID-19 symptoms and is seeking medical diagnosis.</p> <p>Such special paid leave shall not extend beyond 15 working days and will be in addition to any other leave benefits afforded by law.</p>
CURRENT RULE	11.36 End of Special Leave Related to COVID-19 Health Pandemic
	<p>(a) Effective May 31, 2020, the use of special leave under Civil Service 11.23(d) shall not be granted by an appointing authority for any employee absence related to the COVID-19 health pandemic.</p> <p>(b) The provisions of subsection (b) do not apply to employees covered under Rule 11.35.</p> <p>(c) The Director is granted the authority to reinstate special paid leave under Civil Service Rule 11.23(d) for absences related to COVID-19 in the event the need arises due to a resurgence in the pandemic and an accompanying declaration by the Governor.</p>

Should you have any questions about these rules, please contact your Agency Relationship Manager or email SCSInfo@la.gov.

Sincerely,

s/Byron P. Decoteau, Jr.
State Civil Service Director