

SUMMARY OF AMENDMENTS

The following is a summary of proposed amendments to the *Administrative Rule* of the West Virginia Division of Personnel (143CSR1). This summary does not include technical amendments which merely correct errors in spelling, grammar, punctuation, and/or other such corrections. There are also many minor revisions reflecting the Division of Personnel's commitment to implementing more efficient means of communicating with applicants (i.e., electronically). Reference is made to the sections of the Rule which have been amended. The reference number reflects the current proposed number, unless otherwise specified.

<u>REFERENCE</u>	<u>SUMMARY</u>
1.5.	Added Sunset provision as required by the Legislative Rule of the Secretary of State (153CSR6).
3.1.	Moved definition of "Accrue" to 3.2 in order of alphabetization.
3.5.	Amended definition on "Agency" replacing the "county health departments" with "municipal agencies".
3.16.	Amended language to provide more precise and easily understood terminology and remove unnecessary verbiage and remove reference to "benefits".
3.24.	Replaced the term "plan" with "range" to make the terminology consistent throughout the Rule.
3.61.	Unnecessary language was removed from the definition of "Pay Increment".
3.62.	Amended definition of "Pay Plan" by adding existing language consistent with other sections of the Rule.
3.69.	Amended definition of "Probationary Period" to reflect changes made in the 2016 Rule requiring employees hired through reinstatement must also successfully complete the designated probationary work period and remove language indicating the trial work period is prescribed by the Director consistent with subsection 10.1.b of the Rule.
3.70.	Added language to the definition of "Promotion" to clarify promotions are available to permanent employees only. Also replaced "salary" with "compensation" range for consistency with other relevant sections of the Rule.
3.80.	Deleted the definition of "Salary Range" since the term is no longer used in the Rule. This also required renumbering. The referenced changes are listed with their new numbers, unless otherwise specified.
3.82.	Deleted definition of "Seasonal Employment" in accordance with 2021 H.B. 2011.

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- 3.83. Amended language eliminating any time requirements for temporary employees of work during a working year to be exempt from classified service; and exempting employees in state forests, parks, and recreational areas from classified service, in accordance with 2021 H.B. 2011.
- 3.92. Added a definition for “Work Period” to provide more clarification.
- 5.4.a. Replaced the terminology “salary” with “compensation” for consistency with other relevant sections of the Rule. See 3.24 above.
- 5.4.b. Amended the language to clarify experience for appointment above the entry salary must be “qualifying” experience and removed appointment above the minimum must be authorized by the Director.
- 5.4.f.2a. Removed language providing incumbents whose pay upon reclassification is above the maximum rate of the new range, is ineligible for salary advancements.
- 5.5.a. Updated subsection referenced in accordance with the updated numbering.
- 5.5.b. Removed language requiring the authorization by the Director to provide an additional increases up to the market rate and amended language clarifying training and experience for approval of incremental increases above the market rate must be “qualifying” training and experience.
- 5.7. Moved and struck through language of subdivision 5.5.b. to subsection 5.7. because it applies to subsections 5.4 and 5.6 “Implementation of the Pay Plan” of the Rule. This also required renumbering of subsection 5.5. through 5.11.
- 5.8. Amended language to clarify an employee must have achieved permanent classified status to be eligible for a lateral class change. Also added language providing incremental increases above the minimum required for the class is available to employees selected from a posted job opening only.
- 6.4. Added language clarifying the appointing authority is the “executive or head” of the agency.
- 6.5.a. Updated language to make the terminology consistent with current practices regarding the examination process.
- 6.5.b. Removed language disqualifying applicants from taking competitive assembled examinations for failure to present proper identification.
- 8.4. Corrected grammatical error in the subsection title.
- 8.4.c. Replaced terminology "qualified" with "eligible" consistent with language in subsection 6.4.

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- 9.4. Amended language eliminating any time requirements for temporary employees to work during a working year to be exempt from classified service; and exempting employees in state forests, parks, and recreational areas from classified service, in accordance with 2021 H.B. 2011.
- 9.5.b. Amended language to make the terminology consistent with other sections of the Rule regarding "salary" and "compensation".
- 10.1.b. Added language regarding the probationary period clarifying original appointments to permanent positions are to positions in the classified service.
- 10.1.d. Amended language to provide more precise and easily understood terminology regarding full-time equivalency.
- 10.3. Added language clarifying demotion during the probationary period may only be completed through a demotion with prejudice.
- 10.5.b. Language added to clarify, disqualification of probationary appointees dismissed in accordance with subsection 7.4 of the Rule is to same appointing authority from the same register or for the same classification.
- 11.1. Added language clarifying to be eligible for promotion by competitive examination in the classified service an employee must have achieved permanent status in classified service.
- 11.2. Added language clarifying to be eligible for promotion in the classified service an employee must have achieved permanent status in classified service.
- 12.2.a.1. Removed language providing a predetermination conference is not required when the public interests are best served by withholding the notice or when the cause of dismissal is gross misconduct.
- 12.2.c. Amended language to provide more precise and easily understood terminology and clarify specific reasons for dismissal for job abandonment.
- 12.3.a. Amended language to provide more clarification regarding the accrual of tenure during work periods involving disciplinary suspension.
- 12.3.a.1. Amended the language to clarify current practices and remove verbiage regarding withholding the predetermination conference.
- 12.4. Added language clarifying the order of layoff and recall applies to permanent employees in classified service. Made a correction to terminology used 12.4.g.
- 12.6. Removed language limiting reinstatement to classifications within the occupational group previously held.

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- 12.6.b. Added language to clarify reinstatement/reemployment rights for military personnel applies to active service with State armed service as well as federal armed service.
- 12.6.c. Added language clarifying annual leave credited back to employees reinstated to state service under provisions of subsection 12.6.b.is subject to the carry-forward rate established in subsection 14.3 or this Rule.
- 14.1.b. Moved the struck through language regarding eligibility for holiday observance. Eligibility language is more appropriate for and added to subsection 14.1.d.
- 14.2. Added the terminology “work period” throughout the Rule. See 3.92. above.
- 14.3.a. Added language clarifying annual leave accrual rates for employees working in agencies authorized to work more than the standard workweek.
- 14.3.d. Struck through the term “seasonal” no longer used in the Rule.
- 14.3.f. Amended the subsection title to include the term “annual leave”.
- 14.4.b. Added language clarifying sick leave accrual rates for employees working in agencies authorized to work more than the standard workweek and struck through the term “seasonal”.
- 14.4.d. Amended language providing unpaid leave of absence consistent with 2016 Rule revisions.
- 14.7. Added the terminology “work period” throughout the Rule. See 3.92. above.
- 14.4.d. Amended language for consistency with other relevant sections of the Rule regarding the eligibility for medical leaves of absence.
- 14.4.f.3. Amended language to provide clarification and consistency with current practices regarding approval of leave due to exposure to contagious disease.
- 14.4.g.2. Corrected a grammatical error.
- 14.4.g.4. Amended language regarding the necessity of physician’s/practitioner’s statements for consistency with federal Family Medical Leave Act practices regarding certification and recertification restrictions.
- 14.4.i. Amended language to remove unnecessary verbiage.
- 14.8.a. Language added providing for the use of an unpaid personal leave of absence for exposure to a contagious disease as supported by a physician.
- 14.8.c.3. Amended language to provide more precise and easily understood terminology related to the use of intermittent medical leave of absences.

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- 14.9.c. Added language to clarify reemployment rights for military service apply to state service as well as federal armed services.
- 16.3. Removed subsection no longer necessary as the result of passage of HB 2720, creating a merit-based personnel system within the Department of Transportation.
- 17.1 Amended language to provide more precise and easily understood terminology and remove unnecessary verbiage.

**STATEMENT OF CIRCUMSTANCES REQUIRING
AMENDMENT TO THE ADMINISTRATIVE RULE
OF THE
WEST VIRGINIA DIVISION OF PERSONNEL**

The existing Rule is being amended to clarify certain sections of the Rule, to improve the internal consistency of the Rule, to address statutory revisions, and, generally, to improve the Rule.