

SUMMARY OF AMENDMENTS

The following is a summary of the 2022 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).
3.5.	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 reference to "compensation and benefits".
3.24.	Added the term "compensation range" to make the terminology consistent throughout the Rule.
3.61.	Removed unnecessary language 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 subsection 12.6.a of 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 H.B. 2011.
3.83.	Amended Definition of Temporary Employee eliminating any time requirements for temporary employees during a working year to be exempt

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from classified service; and exempting employees in state forests, parks, and recreational areas from classified service, in accordance with 2021 H.B. 2011.

- 3.91. 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 remove appointment above the minimum must be authorized by the Director and clarify experience for appointment above the entry salary must be “qualifying” experience rather than “pertinent training”.
- 5.4.f.2.a. Removed language providing upon reclassification to a compensation range having a lower minimum incumbents whose pay is above the maximum rate is ineligible for salary advancements.
- 5.5.a. Updated subsection referenced in accordance with the updated numbering.
- 5.5.b. Removed language requiring authorization by the Director to provide an additional increase to employees possessing qualifying training or experience above the minimum required for the class 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.c. Replaced terminology “qualified” with “eligible” consistent with language in subsection 6.4.
- 9.4. Amended language eliminating any time requirements for temporary employees to work during a working year to be exempt from classified service;

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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 in the classified service an employee must have achieved permanent status in classified service.
- 11.2. 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.
- 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 remove approval for the absence as a basis 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 remove verbiage regarding withholding the predetermination conference for suspensions when public interest is best served by withholding the notice of suspension.
- 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 of 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.
- 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. HB2011
- 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 concerning available unpaid leave of absences consistent with 2016 Rule revisions to subsection 14.8.c.1.a. which provides an employee must have worked or been on approved leave with or without pay for military service or leave without pay while receiving workers’ compensation temporary total disability benefits for at least 1,040 hours, during the twelve-month period immediately preceding the beginning of the leave to be eligible for a Medical Leave of Absence.
- 14.7. Added the terminology “work period” throughout the Rule.
- 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.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.

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- 14.8.c.3. Amended language to provide more precise and easily understood terminology related to the use of intermittent medical leave of absences. (E.g., MLOA runs concurrently with FMLA)
- 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 16.3. Additional Prohibition of Political Activities for Highways Employees. The section is no longer necessary as the result of passage of HB 2720, creating a merit-based personnel system within the Department of Transportation.